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POLICY DEPARTMENT
ECONOMIC AND SCIENTIFIC POLICY **A**

Economic and Monetary Affairs

Employment and Social Affairs

**Environment, Public Health
and Food Safety**

Industry, Research and Energy

Internal Market and Consumer Protection

**Welcome Package
Environment**

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**DIRECTORATE GENERAL FOR INTERNAL POLICIES
POLICY DEPARTMENT A: ECONOMIC AND SCIENTIFIC POLICIES**

ENVIRONMENT, PUBLIC HEALTH AND FOOD SAFETY

Welcome Package on Environment

Abstract

In June 2009 a new European Parliament has been elected for a five year term, which will run from 2009 to 2014. This study, commissioned by the European Parliament, is part of a "Welcome Package" for newly elected MEPs in the Environment, Public Health and Food Safety Committee.

This Welcome Package focuses on issues in the Environment field. Separate Welcome Packages have been produced on Public Health and Food Safety respectively. This Welcome Package first provides an introduction to EU environmental policy and how it has developed over time. This introductory chapter sets the context for what is discussed in subsequent chapters and as such mainly focuses on non-legislative policy initiatives and key pieces of legislation enacted before 2004. The second chapter focuses on major legislative measures proposed or adopted in the period 2004–2009 within nine selected thematic areas which constitute the most sensitive sectors covered by the Environment, Public Health and Food Safety Committee. The third chapter is a background note for the hearing of the Commissioner designate for the Environment portfolio in autumn 2009, providing suggestions for issues which MEPs may wish to raise, bearing in mind the main priorities and challenges related to the environment facing the EU in the next five years and beyond. The note also provides a list of possible legislative ideas and suggestions based on previous initiatives of the Parliament. Chapter 4 reviews the implementation of 10 items of legislation which have been selected across the key areas of EU environmental policy. Chapter 5 contains a series of strategic overview maps (SOM) which provide an overview of key upcoming deadlines and the implementation status of environment legislation in force as of 31 May 2009. Finally, chapter 6 provides a list of all existing studies, briefing notes and workshop material that have been requested by the Committee and provided by Policy Department A in 2008.

This document was requested by the European Parliament's Committee on Environment, Public Health and Food Safety.

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LIST OF ABBREVIATIONS

6EAP	Sixth Environmental Action Programme
BAP	Biodiversity Action Plan
BAT	Best Available Technique
BAT-AEL	BAT associated emission levels
BREF	Best Available Technique Reference Document
BWD	Bathing water Directive
CAP	Common Agricultural Policy
CCS	Carbon Capture and Storage
CFP	Common Fisheries Policy
EC	European Community
ECHA	European Chemicals Agency
ECJ	European Court of Justice
EEA	European Environment Agency
EEC	European Economic Community
EEE	Electrical and electronic equipment
EoI	Exchange of information and data
ELV	End-of-life vehicles
EP	European Parliament
EQS	Environmental quality standards
GHG	Greenhouse gas
GPP	Green public procurement
HCFCs	Hydrochlorofluorocarbons
IA	Impact assessment
IAB	Impact Assessment Board
IPPC	Integrated pollution, prevention and control
MSFD	Marine strategy framework Directive
NECs	National emission ceilings
NECD	National emissions ceiling Directive
NGO(s)	Non-governmental organisation(s)
NVZ	Nitrate vulnerable zones
ODS	Ozone depleting substances
PIC	Prior informed consent
RBMP	River Basin Management Plans
REACH	Registration, Evaluation, Authorisation and Restriction of Chemical substances
RoHS	Restriction of the use of certain hazardous substances in electrical and electronic equipment
SAC	Special Areas of Conservation
SCI	Sites of Community Importance
SDS	Sustainable Development Strategy
SMEs	Small- and medium-sized enterprises
TS	Thematic Strategies
UNEP	United Nations Environment Programme
VOC	Volatile organic compounds
WEEE	Waste electrical and electronic equipment
WFD	Water framework Directive

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1 OVERVIEW OF EXISTING ENVIRONMENTAL POLICY AND LEGISLATION

This chapter provides an introduction to EU environmental policy and how it has developed over time. It presents general principles and objectives of EU environmental policy. Moreover, it sets the context for what is discussed in subsequent chapters of this welcome package and as such mainly focuses on non-legislative policy initiatives and key pieces of legislation enacted before 2004. The most important legislation proposed and adopted in the 2004-2009 period is analysed in chapter 2. However, some less important items of legislation which could not be examined in detail in chapter 2 due to space constraints are briefly mentioned in the relevant sections of chapter 1. This chapter is based on the [Factsheets of the European Union](#).

1.1 Environment Policy: General Principles and Strategic Orientations

The 6th Environmental Action Programme establishes a strategic framework and sets priority objectives to be achieved in the field of environment policy during the period 2002-2012, covering the full duration of the legislative period 2004-2009 to be considered in detail in chapter 2. Several complementary policy documents in the environmental field and related policy areas and overarching strategies - both environmental and non-environmental - have also been adopted to guide EU action. These are discussed in this chapter to the extent that they are relevant in shaping EU policies in the area of environmental protection and, more broadly, sustainable development.

1.1.1 Legal basis

The launch of a European environmental policy dates back to a conference of EEC Heads of State and Government in October 1972 which recognised the political need for such a policy in the Community. The 1987 Single European Act introduced a new 'Environment Title' (Articles 130r-t) in the Treaty of Rome, which provided the first clear legal base for the Community's environment policy. Subsequent revisions of the Treaties strengthened the Community's commitment to environmental protection and the role of the European Parliament in developing environmental policy. The main legal basis for Community environmental policy is now provided by Articles 174 to 176 (formerly Articles 130r-t) of the EC Treaty; several other Treaty provisions are also relevant to environmental protection and the development of Community policy in this area.

1.1.2 Objectives

The broad objectives of EU environmental policy as set out in Articles 174 to 176 provide the Community with legal competence to act in all areas of environmental policy. The scope of this competence is limited by the principle of subsidiarity (which restricts EU action to those areas where it can be more effective than national or regional action) and the requirement for unanimity in the Council in matters of a fiscal nature, town and country planning, land use, water resources management, the choice of energy sources and the structure of energy supply.

Sustainable development was made an explicit objective of the EC through the 1997 Treaty of Amsterdam (Article 2 EC). The Treaty also explicitly mentions the duty to integrate protection of the environment into all Community sectoral policies (Article 6 EC). A non-binding Declaration attached to the Treaty of Amsterdam first committed the Commission to undertake impact assessments when putting forward proposals which may have significant environmental implications.

1.1.3 Achievements

Environmental Action Programme and Thematic Strategies

The 6th Environment Action Programme (6EAP) "Environment 2010: Our future, our choice" (Decision 1600/2002/EC) provides a strategic framework for the Community's environmental policy for 2002-2012. It focuses on four priority issues: climate change; nature and biodiversity; environment, health and quality of life; and natural resources and waste. The 6EAP outlines strategic approaches to environmental policymaking which include: improving implementation of existing legislation; integrating environmental concerns into other policies; working more closely with the market; empowering individual citizens; and taking account of the environment in land-use planning and management decisions.

The 6EAP required the Commission to prepare Thematic Strategies (TS) covering seven areas. The TS were adopted in the course of 2005 and 2006, and relate to: [Air Pollution](#); [Prevention and Recycling of Waste](#); [Protection and Conservation of the Marine Environment](#); [Soil Protection](#); [Sustainable Use of Pesticides](#); [Sustainable Use of Natural Resources](#); and [Urban Environment](#). The Thematic Strategies represent a new approach to policy development. They focus on cross-cutting environmental themes rather than specific pollutants or economic activities as has been the case in the past, take a longer-term perspective in setting clear environmental objectives, and seek to identify the most appropriate instruments to deliver EU policy goals in the least burdensome and most cost effective way. Though climate change and biodiversity feature among the key priorities of the 6EAP, these policy areas are not covered by TS, because they have their separate strategic frameworks, the European Climate Change Programme (ECCP) and the Biodiversity Action Plan (BAP).

In April 2007 the Commission published a mid-term review of the 6EAP (COM(2007)225) which concluded that implementation is "generally on-track" but that "existing measures will have to be strengthened or new measures adopted" in certain areas. One year later the Parliament adopted a resolution on this Commission's review² noting that the EU is behind schedule in implementation of measures planned in the 6EAP.

Lisbon Strategy

In March 2000, the Lisbon European Council committed the EU to become "the most dynamic and competitive knowledge-based economy in the world" by 2010. The so-called Lisbon Strategy focused essentially on economic and social objectives. The 2001 Gothenburg European Council complemented the Lisbon Strategy with a "third, environmental dimension", the EU Sustainable Development Strategy (SDS). There is much debate surrounding the relationship between the SDS and the Lisbon Strategy and which of the two takes precedence as the EU's overarching strategy. The 2005 review of the Lisbon Strategy (COM(2005)24) narrowed the priorities of the Lisbon Strategy to promoting growth and jobs, focusing primarily on ways to increase the EU's competitiveness.

² [European Parliament resolution of the 10 April 2008 on the mid-term review of the Sixth Community Environment Action Programme \(2007/2204\(INI\)\)](#).

EU Sustainable Development Strategy

The first EU Sustainable Development Strategy (SDS) was adopted at the European Council in Gothenburg in June 2001. A 'renewed' SDS was subsequently adopted in June 2006 combining both the internal and international dimensions of sustainable development and focusing more clearly on a number of key challenges: climate change and clean energy; sustainable transport; sustainable production and consumption; conservation and management of natural resources; public health; social inclusion, demography and migration; global poverty and sustainable development challenges. The SDS also highlights the importance of cross-cutting policies and activities, as well as the need for better regulation and policy coherence and integration.

Progress under the SDS was to be reviewed at each annual spring European Council as an addition to the Lisbon Strategy. However, this arrangement was criticised for the lack of attention devoted to environmental issues, especially when the number of structural indicators dedicated to sustainable development decreased in 2004 to only cover greenhouse gas emissions, energy intensity of the economy, and volume of transport. The review processes of the SDS and Lisbon Strategy were separated in 2006. In a resolution on the SDS³ adopted in June 2006, the European Parliament agreed to hold a regular Plenary debate on the objectives and targets contained in the SDS so that its views can be taken into account in reviews of the SDS by the European Council.

The Commission's first report on the implementation of the SDS (COM(2007)642) noted that progress on the ground – in terms of implementation of commitments and impacts on the environment - has been modest. However, it argued that there had been significant advances in policy development, particularly in relation to climate change and energy.

Integration of environmental concerns in other policies

Integrating environmental concerns into other Community policies such as energy, fisheries and transport policy has become an important concept in EU environmental policy and is explicitly mentioned in the Treaty (Article 6). A Commission Communication on "A strategy for integrating environment into EU policies - Partnership for Integration" (COM(1998)333) was presented to the European Council in Cardiff in June 1998. At this meeting, all relevant formations of the Council were requested to establish their own strategies for integrating the environment into their respective policy areas. The nine Councils that developed Cardiff integration strategies were: General Affairs, Economic and Finance, Internal Market, Industry, Energy, Agriculture, Development, Fisheries and Transport. The first stocktaking report of the Cardiff process produced in 2004, "Integrating environmental considerations into other policy areas - a stocktaking of the Cardiff process" (COM(2004)394), concludes that the "Cardiff process has failed to deliver fully on expectations".

In recent years, environmental policy integration has made the most significant progress in the field of energy policy. Environmental concerns, and more specifically climate change issues, have been emphasised extensively in high level energy strategies such as the 2006 Green Paper "A European Strategy for Sustainable, Competitive and Secure Energy" (COM(2006)105) and the two policy areas are increasingly represented as being linked, as reflected in the parallel development of the EU's climate and energy policies.

³ [European Parliament resolution on the revised sustainable development strategy.](#)

Simplification of EU environmental law

The Commission's 'Better Regulation' agenda was launched by two key initiatives: the Commission's 2001 White Paper on 'European Governance' (COM(2001)428) and the Lisbon Strategy. At the 2000 Lisbon Council, EU leaders called on the Commission to "set out by 2001 a strategy for further co-ordinated action to simplify the regulatory environment [...] at both the national and Community levels". Subsequently in June 2002 the Commission published an Action Plan for Simplifying and Improving the Regulatory Environment (COM(2002)278) accompanied by two Communications on improving public consultation on Commission legislative proposals (COM(2002)277) and on introducing a system for assessing the likely future economic, social and environmental impacts of Commission proposals (COM(2002)276).

Final discussions on the elaboration of the 6EAP were significantly influenced by the better regulation process. A 2005 Commission Working Document sought to show how the TS incorporate the principles of better regulation (COM(2005)466), noting that the seven strategies reflect a "major effort" in better regulation and aim to "strike the right balance between environment protection and the Lisbon objectives of growth and jobs". To this end, they are based on impact assessments, with particular attention given to stakeholder consultation, simplification, and exploiting linkages and synergies. To the extent possible, the TS use existing instruments and policies, rather than new policy proposals, to bring about new policy goals.

Impact assessment

The principle that all major Commission proposals are accompanied by an appraisal of their environmental impact was endorsed by EU Heads of State and Government in June 1998. The 2001 SDS reiterated the need for strategic assessments, widening this to cover environmental as well as economic and social impacts. A Commission Communication on "Simplifying and improving the regulatory environment" (COM(2001)726) set the basic approach to undertaking a sustainability impact assessment, and a subsequent Communication on Impact Assessment (IA) published in June 2002 (COM(2002)276) set out the details of the procedure, requiring all major Commission proposals to be subject to an integrated IA procedure from autumn 2002. An IA maps out the potential consequences of a decision across its social, economic and environmental aspects, its potential short-term and long-term costs and benefits, and its regulatory and budgetary implications.

Since the introduction of the system, the number and level of sophistication of IA has increased significantly as the procedure has become embedded in the work of the Commission. The IA process continues to undergo further development and improvement. An Impact Assessment Board (IAB) was created in November 2006 and new guidelines for conducting IA were published by the Commission in January 2009 (SEC(2009)92) which provide detailed guidance on the focus of the IA and strengthen the role of the Parliament and Council in the process.

1.2 Citizens' Environmental Rights and Liability

Access to environmental information, public participation and access to justice are considered fundamental conditions for effective and legitimate environmental policies. To provide for remediation of environmental damage, a Community environmental liability scheme has been established.

Access to information, public participation and access to justice

In 2005 the EC approved the 1998 Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Decision 2005/370/EC). This international agreement guarantees the rights of access to environmental information held by public authorities, public participation in decision-making which affects the environment and access to justice in environmental matters.

Directive 2003/4/EC on public access to environmental information implements the first pillar of the Convention, setting out, in Community law, the basic terms and conditions for granting access to environmental information held by or for public authorities in the Member States. Directive 2003/35/EC implements the second pillar of the Convention providing for public participation in drawing up certain plans and programmes relating to the environment, and amending Directives 85/337/EEC and 96/61/EC to bring them into line with the public participation and access to justice provisions of the Convention. A proposal for a Directive to implement the third pillar of the Convention which would guarantee public access to justice in environmental matters in the Member States (COM(2003)624), was presented in 2003 and to date has only had its first reading in Parliament, with no action taken by the Council (see section 2.9.2). Regulation (EC) No 1367/2006 applies the provisions of the Aarhus Convention to EU institutions and bodies (see section 2.9.1).

Environmental liability

Directive 2004/35/EC on environmental liability establishes a framework of liability rules based on the polluter pays principle which aim to prevent and remedy environmental damage. The Directive imposes strict liability on the operators of a range of activities regulated under existing EC environmental legislation to prevent or remedy damage to protected species and habitats, water damage, and land damage. It also imposes fault-based liability on all other occupational activities for damage to species and habitats. These liabilities are imposed through public administrative law and their enforcement requires action by public authorities.

1.3 Natural Resources and Waste

Past and current patterns of resource use have led to high pollution levels, environmental degradation, and the depletion of natural resources. The Thematic Strategies on the sustainable use of natural resources and on the recycling and prevention of waste adopted in 2005 set out a way forward for policy in this area. These strategies are complemented by a long standing body of EU law primarily focused on the delivery of more environmentally sustainable waste management, and increasingly on efforts to promote waste prevention and better resource management.

Facilitating the Management and Prevention of Waste

Thematic Strategy on the prevention and recycling of waste

The Thematic Strategy (TS) on the prevention and recycling of waste (COM(2005)666) was adopted in December 2005. The TS aims to analyse and assess EU waste policy, simplify and clarify the current legal framework, set objectives, and outline the means by which the EU can move towards improved waste management and waste reduction. The TS heralded a significant shift in EU policymaking in the waste field with the adoption of a life cycle approach to waste management, a shift towards a materials-based approach to recycling, a new focus on the prevention of waste, a move towards more flexible mechanisms of policymaking and standard setting, and the use of criteria and standards developed through comitology procedures. The proposal for the revision of the waste framework Directive was adopted in parallel with the TS and was foreseen as the key policy measure for the delivery of the aims and objectives of the TS.

The waste framework Directive

Originally adopted in 1975 (as Directive 75/442/EEC), the waste framework Directive has been extensively amended over the years and was codified in 2006 (2006/12/EC). The Directive requires the permitting of all waste disposal and recovery operations subject to limited and conditional exceptions and sets out definitions and approaches which apply in all waste-related legislation. It also requires Member States to develop national waste management plans setting out how these principles and regulatory requirements will be translated into action.

In addition to this framework Directive, a number of additional Directives and Regulations have been adopted since the mid-1970s to regulate the management of specific categories of waste or the operation of various kinds of waste disposal facilities.

A new waste framework Directive (2008/98/EC) was adopted in October 2008 and will repeal the Directive 2006/12/EC, the hazardous waste Directive (91/689/EEC) and the waste oils Directive (75/439/EEC) on 12 December 2010. The new Directive fundamentally reforms EU waste policy and sets a new framework for future EU policy in this area. A detailed analysis of Directive 2008/98/EC can be found in section 2.2.1.

Regulating waste disposal and treatment operations

Restrictions on the landfilling of waste

Directive 1999/31/EC aims to prevent or reduce the adverse effects of the landfilling of waste on the environment, in particular on surface water, groundwater, soil, air, and human health. The Directive sets up a system of operating permits for landfill sites and establishes targets for reducing the levels of biodegradable waste disposed of within landfills.

Controlled management of hazardous waste

Directive 91/689/EEC lays down stringent requirements for operations involving hazardous waste within the framework established by the 1975 waste Directive. As of 12 December 2010 the hazardous waste Directive will be repealed by the new waste Directive (2008/98/EC). Elements related to the treatment of hazardous waste are also dealt with in other Directives.

Incineration of waste

Directive 2000/76 aims to prevent or reduce air, water and soil pollution caused by the incineration or co-incineration of waste. The new waste Directive (2008/98/EC) contains efficiency criteria enabling the incineration of waste that delivers energy at a given efficiency level to be classified as waste recovery rather than disposal. Under the proposed recasting of the IPPC Directive (COM(2007)844) the incineration Directive will be repealed and replaced by an integrated measure covering all industrial activities (see section 2.3.2).

Disposal of polychlorinated biphenyls (PCBs) and polychlorinated terphenyls (PCTs) and environmental issues of PVC

Directive 96/59/EC approximates Member States' laws on the controlled disposal of PCBs and PCTs, the decontamination or disposal of equipment containing PCBs and/or the disposal of used PCBs in order to eliminate them completely. In October 2001, the Commission adopted a Community Strategy on Dioxins, Furans and PCBs (COM(2001)593) aimed at reducing the release of these substances in the environment and their introduction into the food chain. In July 2000 the Commission published a Green Paper on the environmental issues of PVC (COM(2000)469), one of the most widespread plastics used today.

Shipments of waste

The waste shipment Regulation (EC) No 259/93/EEC established systems to monitor and control the shipment of waste within, into and out of the EU. It was replaced by Regulation (EC) No 1013/2006 on waste shipments which strengthens control procedures and represents a further step towards greater international harmonisation by implementing the UN Basel Convention, which regulates the transboundary shipment and disposal of hazardous waste.

Radioactive waste and substances

Shipments of radioactive waste between Member States and into and out of the EU are subject to specific measures laid down in Regulation (Euratom) 1493/93 and Directive 2006/117/Euratom on the supervision and control of shipments of radioactive waste and spent fuel.

Product and waste stream-specific law

Disposal of spent batteries and accumulators

Directive 91/157/EEC on batteries and accumulators was the first measure adopted to reduce pollution from used batteries containing lead, mercury or cadmium and encourage recycling and the production of batteries containing lower levels of these metals. The Directive was repealed by Directive 2006/66/EC in September 2008. An analysis of the 2006 Directive can be found in section 2.2.2.

End-of-life vehicles

The end-of-life vehicles (ELV) Directive 2000/53/EC aims to increase the rate of reuse and recovery for end-of-life vehicles to 85% by average weight per vehicle by 2006 and 95% by 2015, and to increase the level of reuse and recycling over the same period to 80% and 85% respectively. An assessment of the implementation of the ELV Directive can be found in section 4.4.

Waste electrical and electronic equipment and hazardous substances in electrical and electronic equipment

Directive 2002/96/EC on waste electrical and electronic equipment (WEEE) establishes producer responsibility for WEEE by: setting targets for reuse, recycling and recovery of WEEE; requiring collection for waste to be set up; and encouraging the design and production of electrical and electronic equipment (EEE) to take future reuse, recycling and recovery into account. The Directive is mainly focused on WEEE from private households, although the definition of this also includes waste from commercial, industrial, institutional and other sources given its similar nature and quantity.

Directive 2002/95 on the restriction of the use of certain hazardous substances in electrical and electronic equipment (the RoHS Directive) was adopted in parallel to the WEEE Directive and contributes to its objectives by ensuring that substances which lead to contamination problems during waste management are not used in EEE. The RoHS Directive bans the use of lead, cadmium, mercury, hexavalent chromium and the PBB and PBDE families of brominated flame retardants in EEE on the EU market.

Proposals to recast both the WEEE (COM(2008)810) and RoHS Directives (COM(2008)809) are discussed in sections 2.2.4 and 2.2.5.

Packaging and packaging waste

The packaging and packaging waste Directive (94/62/EC) covers all packaging placed on the Community market and all packaging waste. The Directive requires Member States to take measures to prevent the formation of packaging waste, and to develop packaging reuse systems. Directive 2004/12/EC (amending Directive 94/62/EC) establishes criteria clarifying the definition of the term 'packaging'. The Directive set targets for the delivery of the recovery and recycling of packaging waste that had to be reached by the end of 2008. These targets are anticipated to be reviewed as part of the review of the TS on waste prevention scheduled for 2010.

Management of waste from extractive industries

Directive 2006/21/EC on the management of waste from extractive industries aims to tackle the environmental and health risks associated with the management of mining waste. See section 2.2.3 for an analysis of this Directive.

Use of sewage sludge in agriculture

Directive 86/278/EEC on the protection of the environment, and in particular of soil when sewage sludge is used in agriculture aims to prevent crop contamination by pathogens which may be caused by the use of sludge on agricultural soils.

Ship dismantling

In 2007 the Commission presented a Green Paper on better ship dismantling (COM(2007)269) which analyses the problems posed by this activity. This was followed in November 2008 by a Communication setting out an “EU strategy for better ship dismantling” (COM(2008)767) which aims to ensure that ships with a strong link to the EU in terms of flag or ownership are dismantled in safe and environmentally sound facilities worldwide.

Improving the Efficiency of Resource Use

Thematic Strategy on the sustainable use of natural resources

The TS on the sustainable use of natural resources (COM(2005)670) was published in December 2005 in parallel to, and closely linked with, the TS on waste prevention and recycling. The objective of the natural resources Strategy is to “reduce the negative environmental impacts generated by the use of natural resources in a growing economy”. The TS was conceived as a long-term strategy for decoupling economic growth from negative environmental impacts, and although it does not propose any concrete policy measures or quantitative targets it calls on Member States to develop their own national strategies to address the issue. The TS focuses on improving knowledge, developing monitoring tools and fostering strategic approaches in specific economic sectors.

Sustainable consumption and production and sustainable industrial policy

In July 2008 the Commission adopted a sustainable consumption and production (SCP) and sustainable industrial policy (SIP) package which contains a series of proposals to improve the environmental performance of products throughout their lifecycle and increase awareness and demand for sustainable goods and production technologies. These proposals are an integral part of the EU’s SDS and build on and complement existing EU policies, measures and instruments. The package consists of five elements, three of which revise existing legislative instruments: a Communication on the SCP and SIP Action Plan (COM(2008)397); a proposal for a Regulation revising the EU eco-label scheme (COM(2008)401); a proposal for a Regulation revising the EU eco-management and audit scheme (EMAS) (COM(2008)402); a Communication on public procurement for a better environment (COM(2008)400); and a proposed revision to the Directive on eco-design requirements for energy-related products (COM(2008)399). See section 2.8 for an analysis of the legislative proposals contained in this package.

The raw materials initiative

Access to and the affordability of raw materials is considered crucial to the EU’s economic success. The Commission’s Communication on a “Raw materials initiative” (COM(2008)669) focuses on developing a coherent approach to ensuring better and undistorted access to raw materials for EU industry. The initiative is based on three pillars: better and undistorted access to raw materials in third countries; improving conditions for extracting raw materials within the EU; and increasing resource efficiency and recycling.

1.4 Water Protection and Management

Water is essential for human, animal and plant life and is an indispensable resource for the economy. EU water legislation was transformed by the adoption in 2000 of the water framework Directive (WFD), the main objective of which is to establish a framework for the management of surface water and groundwater based on the river basin. The WFD is supplemented by various pieces of specific legislation related to water pollution, water quality and water quantity.

Water framework Directive (WFD)

The objective of the water framework Directive (2000/60/EC) is to establish an EU framework for the protection of inland surface waters, transitional waters, coastal waters and groundwater, in order to prevent and reduce pollution, promote sustainable water use, protect the aquatic environment, improve the status of aquatic ecosystems and mitigate the effects of floods and droughts. All waters are to achieve good environmental status, except where specific derogations are applied, through the use of River Basin Management Plans.

The objectives of the WFD are to be achieved by 2015, although this deadline may be extended or relaxed under certain conditions. Two implementation reports published to date (COM(2007)128 and COM(2009)156) indicate that while significant progress has been made a number of shortcomings remain. An analysis of the state of implementation of the WFD can be found in section 4.1.

Groundwater

Directive 2006/116/EC on the protection of groundwater against pollution and deterioration was adopted as a result of Article 17 of the WFD Directive which provides for the adoption of specific criteria for the assessment of good chemical status, the identification of significant and sustained upward trends, and the definition of starting points for trend reversals. See section 2.1.2 for an analysis of the groundwater Directive.

Drinking water

Directive 98/83/EC defines the essential quality standards for water intended for human consumption, taking into account scientific and technological progress. The Directive requires Member States to regularly monitor the quality of water intended for human consumption and draw up monitoring programmes.

Bathing water

In 2006 a new bathing water Directive (2006/7/EC) was adopted which lays down provisions for the monitoring and classification of bathing water. The Directive complements the WFD, the Directive on urban wastewater treatment, and the Directive on nitrates pollution from agricultural sources. See section 2.1.1 for an analysis of the bathing water Directive.

Quality standards for shellfish waters and freshwater fish

Specific measures for the protection and/or improvement of the quality of fresh waters which support certain fish species and shellfish are contained in Directive 79/923/EC on the quality required for shellfish waters and Directive 78/659/EC on the quality of fresh waters needing protection or improvement in order to support fish life. Codified versions of both Directives were adopted in 2006 (2006/113/EC and 2006/44/EC). Both of them will be repealed by the WFD in December 2013.

Urban waste water treatment

Directive 91/271/EC (as amended by 98/15/EC) concerning urban waste water treatment aims to protect the environment from the adverse effects of urban waste water discharges and discharges from certain industrial sectors. The Directive sets minimum standards and timetables for the collection, treatment and discharge of urban waste water, introduces controls on the disposal of sewage sludge, and requires an end to sewage sludge dumping at sea.

Discharges of substances, limit values and nitrates

The Directive on pollution caused by certain dangerous substances discharged into the aquatic environment (76/464/EEC) laid the framework for a 'black' and 'grey' list of 132 substances declared dangerous by virtue of their persistence, toxicity and bio-accumulation. This was supplemented by subsequent daughter Directives prescribing emission limit values and quality objectives for 17 of those substances. Directive 2006/11/EC brings together the original Directive (76/464/EEC) and all its daughter Directives into a single text.

Decision 2455/2001/EC established a list of priority substances in the field of water policy for which quality standards and emission control measures are to be set at Community level. In 2008, a new Directive on environmental quality standards in the field of water policy (2008/105/EC) was adopted, amending the WFD and laying down environmental quality standards, but no emission control measures, for priority substances. See section 2.1.3 for an analysis of Directive 2008/105/EC.

Directive 91/676/EEC concerning the protection of waters against pollution caused by nitrates from agricultural sources seeks to reduce or prevent the pollution of water caused by the application and storage of inorganic fertiliser and manure on farmland. The Directive aims to safeguard drinking water supplies and prevent wider ecological damage from eutrophication.

Flood protection

Directive 2007/60/EC on the assessment and management of flood risks aims to reduce and manage the risks that floods pose to human health, the environment, infrastructure and property. See section 2.1.4 for an analysis of the Directive.

Water scarcity and drought

In 2007 the Commission presented a Communication on "Addressing the challenge of water scarcity and droughts in the EU" (COM(2007)414) which outlines an initial set of policy options to increase water efficiency and encourage water savings including: better water pricing policy; more efficient use of funding; national plans; the creation of an observatory and early warning system on droughts; additional water supply infrastructures; fostering water efficient technologies and practices; and developing a water-saving culture in Europe.

Conservation and protection of the marine environment

Thematic Strategy on the marine environment

The TS on the marine environment was published in October 2005 and aims to "protect and restore Europe's oceans and seas to ensure that human activities are carried out in a sustainable manner so that current and future generations enjoy and benefit from biologically diverse and dynamic oceans and seas". In parallel with the TS, the Commission put forward a proposal for a marine strategy Directive which aims to achieve "good environmental status" in the marine environment by 2021 at the latest. The Directive was adopted in 2008 (2008/56/EC); see section 2.1.5 for an analysis of the Directive.

Marine pollution

The Commission Communication on "Cooperation in the field of accidental or deliberate marine pollution after 2007" (COM(2006)863) reviewed the prevention of marine pollution and recovery after pollution and indicates how monitoring and development is to be guaranteed from 2007 after the expiry of an earlier framework for cooperation (Decision 2850/2000/EC). The Erika oil spill disaster in 2000 prompted the EU to strengthen its role in the field of maritime safety and marine pollution with the adoption of a Regulation (EC) No 1406/2002 establishing the [European Maritime Safety Agency \(EMSA\)](#). Directive 2005/35/EC on ship source pollution and the introduction of penalties for infringements aims to ensure that those responsible for polluting discharges at sea are subject to effective and dissuasive penalties, which may be criminal or administrative. In March 2008 the Commission proposed an amendment to Directive 2005/35/EC (COM(2008)134) which was subsequently agreed at first reading by the Council and Parliament in 2009.

Integrated maritime policy

In October 2007 the Commission presented a Communication on the EU's integrated maritime policy (COM(2007)575) which aims to: enable economic development without compromising the environment; utilise available knowledge and innovation; deliver a high quality of life in coastal regions; raise the visibility of maritime affairs; and create an international leadership role for the EU. The key principles underlying the proposal are: an integrated, cross-cutting approach to different maritime activities; an interconnected ecosystem approach to achieve the sustainable development of different activities; maintaining the subsidiarity principle; stakeholder involvement in all policy areas; and a dynamic and flexible process. This is supported by a number of specific actions in individual policy areas. On environmental issues the integrated maritime policy stresses the importance of the marine strategy Directive (2008/56/EC) which is established as the environmental pillar of the policy. Further environmental actions proposed include: launching pilot areas to reduce the impact of and adapt coastal zones to climate change; supporting efforts to reduce air pollution and greenhouse gases from shipping; and reducing environmental impacts from ship dismantling.

1.5 Air Pollution

Many human activities lead to the deterioration of air quality, including industrial production, fossil fuel combustion and emissions from transport. The Air Quality Directive and the Thematic Strategy on Air Pollution aim to prevent harmful effects on the environment and human health, together with other legislation addressing specific sources of air pollution.

Thematic Strategy on air pollution

The TS on air pollution (COM(2005)446) presented in September 2005 was developed through the Clean Air for Europe (CAFE) programme. The TS aims to reduce the concentration of fine particulate matter (PM_{2.5}) by 75% and of ground level ozone by 60% by 2020, and to reduce the threat to the natural environment from both acidification and eutrophication by 55% by 2020. This means cutting sulphur dioxide (SO₂) emissions by 82%, nitrogen oxides (NO_x) by 60%, volatile organic compounds (VOCs) by 51%, ammonia by 27% and primary PM_{2.5} by 59% from 2000 levels. The TS also aims to introduce new air quality standards for PM_{2.5} in air and to amend the national emissions ceiling Directive (2001/81/EC). It proposed to streamline existing air quality legislation by merging five existing instruments into a single Directive, and to this end was accompanied by a proposal for a Directive on ambient air quality and cleaner air for Europe (COM(2005)447).

Management and quality of ambient air

The air quality framework Directive (96/62/EC) sets out the basic principles of a common strategy for establishing ambient air quality objectives. The Directive was supplemented by four daughter Directives relating to specific pollutants: Directive 1999/30/EC on SO₂, NO₂ and NO_x, particulate matter (PM₁₀) and lead in ambient air; Directive 2000/69/EC which introduces specific limit values for benzene and carbon monoxide (CO); Directive

2002/3/EC which establishes an information threshold, an alert threshold, target values and long-term aims for ozone concentration in ambient air; and Directive 2004/107/EC which establishes target values for concentrations of arsenic, cadmium, mercury, nickel and polycyclic aromatic hydrocarbon. In May 2008 the new Directive on ambient air quality and cleaner air for Europe (Directive 2008/50/EC) was adopted. This Directive merges most of the existing legislation into a single Directive (except for the fourth daughter directive) and sets new air quality objectives for PM_{2.5}. See section 2.3.1 for an analysis of the new Directive.

National emissions ceilings for certain atmospheric pollutants

Directive 2001/81/EC on national emission ceilings for certain atmospheric pollutants aims to reduce the adverse effects of acidification, ground-level ozone and eutrophication by setting national emission ceilings for SO₂, NO_x, VOCs and ammonia (NH₃). The TS called for a revision to the Directive, which was initially expected in early 2008, but has been delayed.

Emissions from vehicles

Air pollution from vehicles can be regulated by specifying the composition of the fuel used and by specifying the characteristics of the vehicle itself. A series of Directives have been introduced that aim to regulate the emissions of different categories of vehicles (passenger cars and light commercial vehicles, heavy duty commercial vehicles, two or three wheel motor vehicles) or engines (diesel engines for tractors, engines in non-road mobile machinery). In addition, Directives exist that regulate the content of sulphur and lead in fuels and that set limits for broader fuel quality parameters. Although initially introduced to prevent barriers to trade in the internal market, environmental considerations are now playing an increasingly important role.

In 2007 the Commission presented a proposal for a Regulation setting emission performance standards for new passenger cars as part of the Community's integrated approach to reduce CO₂ emissions from light-duty vehicles (COM(2007)856). The Commission also proposed a revision of EU fuel quality standards (COM(2007)18) encouraging the development of lower-carbon fuels and biofuels by obliging suppliers to reduce the greenhouse gas emissions caused by the production, transport and use of their fuels by 10% between 2011 and 2020. These legislative proposals were discussed and adopted in 2008 in the context of the EU's climate and energy package and are analysed in further detail section 2.6.

Industrial emissions

Integrated pollution prevention and control (IPPC)

The Directive on integrated pollution prevention and control (IPPC) (2008/1/EC, previously 96/61/EC) defines obligations with which the largest industrial and agricultural installations in the EU must comply. It establishes a procedure for authorising activities and defines the principles of the conditions to be included in permits, particularly in terms of pollutants released. The Directive uses an 'integrated approach' which implies that permits should take into account the overall environmental performance of a plant thus covering emissions to air, water and soil, generation of waste, use of raw materials, energy efficiency, noise, prevention of accidents, and site remediation upon closure.

In December 2007 the Commission presented a proposal for a Directive on industrial emissions (COM(2007)843) which recasts and consolidates seven existing Directives related to industrial emissions into a single legislative instrument, including the Directives on large combustion plants and volatile organic compounds. - see section 2.3.2.

Large combustion plants

Directive 2001/80/EC on the limitation of emissions of certain pollutants into the air from large combustion plants applies to combustion plants with a rated thermal input equal to or greater than 50 MW irrespective of the type of fuel used. The Directive aims to reduce annual emissions of SO₂ and NO_x from existing plants and lays down emission limit values for new plants.

Volatile organic compounds (VOCs)

Directive 1999/13/EC on the limitation of emissions of VOCs due to the use of organic solvents in certain installations addresses a wide range of activities, including many that are not regulated under IPPC. The Directive complements other EC measures that seek to control VOCs (such as Directive 94/63/EC on the control of VOC emissions from the storage and distribution of petrol) and those that seek to limit secondary air pollutants that may be formed as a result of VOC, such as ozone (Directive 92/72/EC on air pollution by ozone).

1.6 Noise Pollution

In the past, the focus of EU noise legislation has been on limiting noise from products rather than on setting standards for ambient background noise. Thus various pieces of legislation exist that seek to address noise from different vehicle types, products and equipment. More recently, the focus has broadened to include efforts to develop common noise assessment methods.

Assessment and management of noise

Directive 2002/49/EC, relating to the assessment and management of environmental noise, sets a common Community-wide approach to reducing exposure to environmental noise. The Directive aims to harmonise noise indicators and assessment methods; gather noise exposure information in the form of noise maps; make information available to the public; and adopt action plans to reduce noise exposure where necessary. The Directive also provides the basis for future EU measures to reduce noise from major sources such as road and rail vehicles and infrastructure, aircraft and outdoor equipment where appropriate. An analysis of the implementation of Directive 2002/49/EC can be found in section 4.9.

Road traffic

Directive 70/157/EEC (as amended) set limits on the permissible sound level and exhaust systems of four-wheeled road vehicles with a maximum speed of more than 25 km/h while Directive 97/24/EC sets noise limits for mopeds and motorcycles. Complementing this legislation is Directive 2001/43/EC relating to tyres for motor vehicles and their trailers which provides for the testing and limiting of tyre rolling noise levels and for their phased reduction.

Aircraft

A series of Directives have been adopted to ensure Member States implement noise standards agreed within the International Civil Aviation Organisation (ICAO) as well as recommendations of the European Civil Aviation Conference (ECAC). Directive 2002/30/EC established rules and procedures with regard to the introduction of noise-related operating restrictions at Community airports.

Rail

Directive 96/48/EC and Directive 2001/16/EC provide a legislative framework for technical and operational harmonisation of the rail network for high-speed rail and conventional rail respectively. In July 2008 the Commission submitted a Communication on rail noise abatement measures addressing the existing fleet (COM(2008)432).

Recreational craft

Directive 2003/44/EC, amending Directive 94/25/EC, complements the design and construction requirements for recreational motorboats, including personal watercraft, with environmental standards regarding exhaust and noise emission limit values.

Household appliances and outdoor equipment

Directive 86/594/EEC contains provisions related to measuring methods determining and monitoring the airborne noise emitted by household appliances. Directive 2000/14/EC (amended by Directive 2005/88/EC) aims to control noise emissions and labelling of more than 50 types of equipment used outdoors.

1.7 Climate Change

Tackling climate change has been a key item on the EU's environmental agenda over the past few years and is increasingly being integrated into other policy areas, such as energy, transport and regional development. The overarching objective of EU climate policy is to limit global warming to 2°C above pre-industrial average temperature levels. The EU is committed to reducing its greenhouse gas emissions by at least 20% below 1990 levels by 2020, while improving energy efficiency by 20% and increasing the share of renewable energy sources to 20% of consumption.

The UN Framework Convention and its Kyoto Protocol

Under the Kyoto Protocol to the United Nations Framework Convention on Climate Change (UNFCCC) concluded in 1997, contracting parties are committed to reducing emissions of six greenhouse gases (GHG) responsible for climate change: carbon dioxide (CO₂), methane, nitrous oxide, hydrofluorcarbons, perfluorcarbons and sulphur hexafluoride. The Community committed itself to achieving an overall reduction in CO₂ emissions of 8% in the period 2008-12 compared with 1990 levels.

The legally binding EU 'burden-sharing agreement' allocates responsibility for achieving the common reduction target among the EU-15 (the different individual targets for each Member State are defined in Annex II of Decision 2002/358/EC). New Member States, except Poland, Hungary, Cyprus and Malta, are individually bound by the same 8% reduction commitment as the EU-15. Poland and Hungary negotiated a 6% target in Kyoto, while Cyprus and Malta are still equated with developing countries under the UNFCCC and accordingly have no international obligation to reduce their GHG emissions. Decision 280/2004/EC provides for a mechanism for monitoring greenhouse gas emissions and implementing the Kyoto Protocol.

At the UN climate conference in December 2005, the EU pressed for and obtained a decision to launch talks on future international cooperation on climate change after 2012, when the Kyoto Protocol commitments will expire. The EU played an important role during the 2007 UN climate conference in Bali, securing agreement on a roadmap towards a new comprehensive agreement on cutting GHG emissions to be concluded by December 2009. The conference in December 2008 saw the adoption of work programmes for two parallel negotiation processes in 2009, one under the UNFCCC and the other under the Kyoto Protocol. The process to achieve a global climate agreement continues in 2009. Pressure is increasing but a number of major players still need to be brought on board, and the outcome of the negotiations remains uncertain.

European Climate Change Programme (ECCP)

The ECCP was established in June 2000 on the basis of two Communications (COM(2000)88 and COM(2001)580) to help identify the most environmentally friendly and cost-effective measures to enable the EU to meet its targets under the Kyoto Protocol. Within the context of its first phase (ECCP I), working groups investigated the possibilities of and issues related to: market-based mechanisms such as an emission trading scheme (ETS), Joint Implementation (JI) and Clean Development Mechanism (CDM); energy supply and consumption (including the use of renewable energy and the improvement of the energy performance of buildings); transport; industry; agriculture and forestry (including the use of forests as carbon sinks); and research.

The second phase (ECCP II) was launched in October 2005 and consists of several working groups: ECCP I review (with 5 subgroups: transport, energy supply, energy demand, non-CO₂ gases, agriculture); aviation; CO₂ and cars; environmentally safe use of carbon capture and storage; adaptation; and EU ETS review.

EU Emission Trading Scheme (ETS)

The principal mechanism for meeting the Community's commitments under the Kyoto Protocol is the EU's Emission Trading Scheme (ETS) established by Directive 2003/87/EC. The Directive aims to reduce GHG emissions in a cost-effective way by establishing an EU-wide scheme for trading GHG emissions. The original Directive applied to the industrial and energy supply sectors and is gradually being extended into other parts of the economy. Major users of energy covered by the scheme are required to obtain an emissions permit, with the number of emission allowances capped and declining over time. When emissions from a plant exceed the allowances available to it, the operator must purchase additional allowances on the carbon market. As the caps become more restrictive the price of allowances is expected to rise, thus incentivising increased energy efficiency and other investments to reduce emissions. Proposals to revise and extend the EU ETS have been adopted in April 2009 and are discussed in detail in section 2.6.

The so-called "Linking Directive" (2004/101/EC) links the EU ETS with the Kyoto Flexible Mechanisms - Joint Implementation (JI) and the Clean Development Mechanisms (CDM). CDM projects involve investment by industrialised countries with GHG reduction commitments in projects that reduce GHG emissions in the developing world in exchange for CO₂ emission reduction credits. The basic rationale underlying the CDM is that abatement of GHG in developing countries can be achieved at lower costs than in developed countries. JI projects are similar and allow for emission credits to be obtained through projects carried out in other industrialised countries.

In 2005 the Commission presented a Communication on "Winning the battle against global climate change" (COM(2005)35) which recommended a number of elements to be included in the EU's future climate change strategy. In January 2007 the Commission presented a follow up to this Communication entitled "Limiting Global Climate Change to 2° Celsius: The way ahead for 2020 and beyond" (COM(2007)2) which sets out a series of ambitious proposals and targets to reduce GHG emissions so as to avoid the dramatic consequences of climate change. In March 2007 EU leaders endorsed this vision and agreed an ambitious set of climate change targets for the EU which included a unilateral commitment to reducing the EU's greenhouse gas emissions by 20% compared to 1990 levels by 2020. This target would be raised to 30% should other industrialised nations commit to comparable reductions under a global agreement.

Based on its Communication of January 2007 and the Presidency Conclusions of the March 2007 European Council, the Commission elaborated a package of legislative proposals in order to translate the high-level political commitments into concrete action. These proposals, which together are known as the "climate and energy package", were presented by the Commission in January 2008. They are examined in detail in section 2.6.

Adaptation to climate change

Climate policy based on GHG emission reductions (mitigation) needs to be complemented with an efficient response to the unavoidable consequences of climate change already being experienced or to occur in the future due to past GHG emissions (adaptation). Concrete action for adaptation ranges from soft and relatively inexpensive measures (such as water conservation, changes in crop rotations, use of drought tolerant crops, public planning and awareness raising) to costly protection and relocation measures (such as increasing the height of dykes, and relocating ports, industry, and people from low-lying coastal areas and flood plains).

In June 2007 the Commission issued a Green Paper on “Adapting to climate change in Europe – options for EU action” (COM(2007)354), which aimed to stimulate a broad public debate on adaptation in Europe. Following this, in April 2009, the Commission published a White Paper on adaptation (COM(2009)147), along with three working papers on water, coasts and marine issues, and agriculture and health. The White Paper focuses on increasing the resilience of the EU to the impacts of climate change, promoting ecosystem-based strategies and taking a “no regrets” approach to action, and sets out a two-phase framework: the first phase, running from 2009 to 2012, is devoted to further research and analysis to lay the groundwork for the implementation of a comprehensive adaptation strategy in the second phase, which is to begin in 2013.

1.8 Biodiversity, Nature and Soil

The main threats to biodiversity include habitat degradation, shrinkage and fragmentation, damaging fisheries and agricultural practices, the abandonment of traditional land management, invasive species and disease. While the EU has a good foundation for biodiversity conservation with relatively comprehensive legislation on species and habitat conservation, this is not fully implemented in practice and tends to be less effective outside protected areas.

Conservation of natural habitats and of wild fauna and flora

The two key pieces of EU legislation that relate to nature protection are Directive 79/409/EEC on the conservation of wild birds (commonly referred to as the birds Directive) and Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora (commonly referred to as the habitats Directive).

The principal aim of the birds Directive is to ensure that Member States take the requisite measures to maintain the population of the all species of naturally occurring wild birds in their European territories at a level which corresponds to ecological, scientific and cultural requirements, or to adapt the population of these species to that level. The habitats Directive includes a number of requirements for Member States to implement conservation measures for habitats and species of Community interest (as listed in Annex I and II of the Directive respectively). The general purpose of such measures should be to achieve the overall aim of the Directive which is “to contribute towards ensuring bio-diversity through the conservation of natural habitats and of wild fauna and flora in the European territory of the Member States to which the Treaty applies.” It also states that measures resulting from the Directive “shall be designed to maintain or restore, at favourable conservation status, natural habitats and species of wild fauna and flora of Community interest”. Both Directives require two main types of action to deliver favourable conservation status: the protection and conservation management of sites that are particularly important for EU biodiversity; and the strict protection of listed species as well as their breeding sites and resting places wherever they occur.

The protection of important sites has been carried out by the establishment of the Natura 2000 network. The network is made up of “Special Areas of Conservation” (SACs) designated by Member States in accordance with the habitats Directive, and “Special Protection Areas” (SPAs) classified pursuant to the birds Directive. To date, reasonably good progress has been made towards the designation of the terrestrial Natura network in most countries. However, relatively few Natura sites have been identified for the offshore marine environment.

An overview of the status of transposition and application of the habitats Directive can be found in section 4.7.

Halting the loss of biodiversity and the EU Biodiversity Action Plan

In 2001 EU Heads of State and Government committed to halting the decline of biodiversity in the EU by 2010 and to restoring habitats and natural systems. To achieve this objective, in May 2006 the Commission adopted a Communication on "Halting Biodiversity Loss by 2010 – and Beyond: Sustaining ecosystem services for human well-being" (COM(2006)216) which was accompanied by a detailed EU Biodiversity Action Plan (BAP). The BAP describes over 150 actions and outlines responsibilities of the EU institutions and Member States around four main policy issues: biodiversity in the EU; the EU and global biodiversity; biodiversity and climate change; and the knowledge base. The BAP also committed the EU to developing a strategy on invasive alien species (IAS), and in December 2008 the Commission adopted a Communication "Towards an EU strategy on invasive species" (COM(2008)789) which outlines potential policy options for an EU strategy.

In 2008, the Commission published its mid-term assessment of progress in implementation of the BAP at the Community and Member State level (COM(2008)864). The main conclusion of this assessment is that the EU is *highly unlikely* to meet its 2010 target and that enormous efforts are needed over the next two years to even come close to achieving this ambitious target. A particular challenge remains the integration of biodiversity into other sectoral policies.

Exploitation and trade of wild fauna and flora

The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) regulates international trade in endangered species of fauna and flora. The primary objective of Regulation (EC) No 338/97 on the protection of species of wild fauna and flora by regulating trade therein is to ensure compliance with the CITES convention within the EU, even though the Community itself is not a party to the Convention. The Regulation also controls trade in certain species not listed in CITES.

Forestry

Although the EC does not have specific competence in matters of forest policy many EU sectoral policies - such as the Common Agriculture Policy (CAP), Structural Funds, the birds and habitats Directives and pollution control Directives - directly or indirectly affect forestry and forests, typically through national implementation measures. The EC contributes to the implementation of sustainable forest management and to the multifunctional role of forests through non-binding policy frameworks.

In December 1998, the European Council adopted a Resolution on a Forestry Strategy for the EU which aims to establish an EU-wide framework for forest-related activities by improving the coordination and coherence between national policy measures and EU policies and initiatives related to forests. The EU Forest Action Plan (FAP) (COM(2006)302) adopted in June 2006 aims to support and enhance the sustainable management and multifunctional use of forests.

In October 2008 the Commission published a Communication on deforestation and forest degradation (COM(2008)645) which sets out two key proposals with the objective of halting global forest cover loss by 2030 and reducing tropical deforestation by a minimum of 50% by 2020 compared to current levels. The two proposals are: the establishment of a Global Forest Carbon Mechanism (GFCM) to finance measures aimed at preventing deforestation and forest degradation as part of a post-Kyoto UNFCCC agreement for the period 2013 to 2020; and the possible inclusion of deforestation in carbon markets in the longer term by granting credits for retaining areas of forest under the EU ETS (by 2020 at the earliest) but also the potential to earmark ETS auction receipts for deforestation prevention measures. At the same time the Commission presented a legislative proposal which seeks to tackle illegal logging by minimising the risk of illegally sourced timber products sold within the EU market (COM(2008)644) - see section 2.5.1.

Thematic Strategy on soil protection

In September 2006 the Commission adopted a TS for soil protection (COM(2006)231). The TS was developed in close cooperation with stakeholders and is primarily dedicated to explaining the content of the accompanying proposal for a framework Directive. Although it does not contain any specific quantitative targets relating to soil protection, the TS includes a list of qualitative objectives and actions which include recommendations that Member States should take into account when developing national policy and that the Commission should monitor the integration of soil issues in other policy areas.

A proposal for a Directive establishing a framework for the protection of soil (COM(2006)232) which is part of the TS, is discussed in section 2.5.2.

1.9 Harmful Substances

EU chemicals legislation aims to prevent barriers to trade and to protect human health and the environment. EU legislation on the management of chemicals consists of rules governing the marketing and use of particular categories of chemical products, a set of harmonised restrictions on the placing on the market and the use of specific hazardous substances and preparations, rules governing major accidents and exports of dangerous substances.

Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH)

EU chemicals policy underwent a radical overhaul with the introduction of Regulation (EC) No 1907/2006 on the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) in 2006. The Regulation entered into force on 1 June 2007, establishing a new legal framework to regulate the development and testing, production placing on the market and process use of chemicals. The European Chemicals Agency (ECHA), established under the Regulation and based in Helsinki, is responsible for managing technical, scientific and administrative aspects of REACH, and ensuring consistency in its application. The REACH Regulation is discussed in detail in section 2.4.1.

Classification, packaging and labelling

Directive 67/548/EEC (as amended) sets out a uniform notification procedure for the classification, packaging and labelling of dangerous substances. Directive 1999/45/EC relates to the classification, packaging and labelling of dangerous preparations (i.e. mixtures or solutions of two or more substances including paints, solvents, alloys and pesticides). The REACH Regulation does not include rules on classification, packaging and labelling, so the requirements set out in these Directives continue to apply during a transitional period, though they have been amended (by Directive 2006/121/EC) to comply with REACH.

Regulation (EC) No 1272/2008 on classification, labelling and packaging of substances and mixtures aims to align the EU system to the UN Global Harmonised System (GHS) and is discussed in section 2.4.2.

Major accidents

After an accident in Seveso, Italy in 1976, the EU took steps to prevent major accidents such as fires or explosions. The Seveso Directive 82/501/EEC (as amended) aims to prevent such accidents and to limit the consequences of those that do occur by requiring safety reports, emergency plans and information to the public. Directive 96/82/EC on the control of major accident hazards involving dangerous substances (Seveso II) replaced the original Seveso Directive, introducing new requirements relating to safety management systems, emergency planning and land-use planning, and strengthening provisions on inspections carried out by Member States. It transposes the EU's obligations under the Espoo Convention on the Transboundary Effects of Industrial Accidents. The Seveso II Directive was amended by Directive 2003/105/EC which obliges industrial operators to put into effect safety management systems, including a detailed risk assessment based on possible accident scenarios.

Restrictions on marketing and use

Directive 76/769/EEC relating to restrictions on the marketing and use of certain dangerous substances and preparations created a general framework for bans or restrictions on the marketing and use of dangerous substances and preparations. Restrictions are set out in an Annex I of the Directive, which was amended and extended by a large number of subsequent Directives. These restrictions were codified in Annex XVII of the REACH Regulation, which repealed Directive 76/769/EEC as of 1 June 2009.

Directive 79/117/EEC sets out restrictions on the marketing and use of plant protection products (pesticides) while Regulation (EC) No 396/2005 sets limits on pesticide residues in food. Directive 91/414/EEC on the placing of plant protection products on the market introduces a Community system for the authorisation and marketing of agricultural pesticides.

Directive 98/8/EC establishes controls over the marketing and use of biocides (non-agricultural pesticides) so as to manage the associated risks to the environment and to human and animal health. In June 2009, the Commission adopted a proposal for a Regulation (COM(2009)267) that would replace the 1998 Directive.

Thematic Strategy on the sustainable use of pesticides

In 2006 the Commission adopted a TS on the sustainable use of pesticides (COM(2006)372) which aims to reduce environmental and health risks while maintaining crop productivity and improving controls on the use and distribution of pesticides. The TS does not include quantified environmental targets, instead proposing that Member States mandate the adoption of action plans to achieve the objective of reducing hazards and risks from and dependence on pesticides.

The TS was accompanied by a proposal for a Directive establishing a framework for Community action to achieve a sustainable use of pesticides (COM(2006)373), which is discussed in section 2.4.3. A separate but related proposal for a Regulation on the placing on the market of plant protection products, which would replace Directive 91/414/EEC (COM(2006)388) and also repeal Directive 79/117/EEC, is discussed in section 2.4.4.

In order to establish a transparent system for reporting and monitoring progress towards the objectives of the TS, the Commission presented a proposal for a Regulation concerning statistics on plant protection products (COM(2006)778). The proposed Regulation lays down harmonised rules for the collection and dissemination of data concerning the placing on the market and use of pesticides. A compromise deal was reached between the Council and the Parliament in March 2009 and was adopted by the European Parliament at second reading on 24 April 2009.

Asbestos

Directive 87/217/EEC on the prevention and reduction of environmental pollution by asbestos sets out controls over the pollution of air, water and land by asbestos. It is complemented by Directive 91/382/EC and 2003/18/EC which aim to protect workers against the dangers of asbestos, as well as certain provisions in Annex XVII of REACH.

Detergents

Regulation (EC) No 648/2004 harmonises rules for: the biodegradability of surfactants; restrictions and bans on surfactants on the grounds of biodegradability; information manufacturers must hold for use by Member State competent authorities and medical personnel; and labelling for detergent ingredients.

Mercury

In 2005 the Commission adopted a Communication on a Community Strategy Concerning Mercury (COM(2005)20) which addresses all aspects of the mercury life cycle and proposes 20 actions to address mercury pollution both in the EU and globally. It contains measures to reduce mercury emissions, cut supply and demand and protect against exposure to methylmercury found in fish. Some of these measures are implemented by Regulation (EC) No 1102/2008, which is analysed in section 2.4.6. To the extent that mercury is considered as waste, it falls within the scope of existing Community legislation on waste, such as Regulation (EC) No 259/93 on waste shipments and Directive 1999/31/EC, on landfill of waste.

Global negotiations on an international agreement to address the mercury problem are currently taking place under the auspices of the United Nations Environment Programme.

Export and import of dangerous substances

Community legislation regulating the export and import of dangerous chemicals has been in place since 1988, and was revised and strengthened in 1992 and 2003 following developments in international policy and law. Community rules relating to the export and import of dangerous chemicals as set out in Regulation 689/2008/EC are discussed in section 2.4.5.

1.10 Sustainable Consumption and Production

Integrated product policy (IPP) seeks to minimise the negative impacts of products, be it from their manufacturing, use or disposal, by looking at all phases of a product's lifecycle and taking action where it is most effective. The EU has developed an IPP strategy as well as wider policies and initiatives to promote sustainable consumption and production (SCP) and environmental technologies as well as biotechnology and nanotechnology.

Green Paper and Communication on integrated product policy

The Commission's Green Paper on integrated product policy (COM(2001)68) presented a strategy for strengthening and refocusing product-related environmental policies with a view to promoting the development of a market for greener products and stimulating public discussion. This strategy focused on three stages in the decision-making process that strongly influence the lifecycle environmental impacts of products:

- **Setting product prices:** Implementing the polluter pays principle and ensuring that prices reflect the environmental costs of products, for example through differentiated taxation according to environmental performance;
- **Informed consumer choice:** Increasing demand for more environmentally friendly technologies by educating consumers and companies and providing understandable, relevant and credible information through product labelling or other readily available information sources; and
- **Eco-design:** Promoting the lifecycle concept within companies through eco-design guidelines and a general strategy for integrating environmental considerations into the design process.

In a subsequent Communication on "IPP - Building on environmental life-cycle thinking" (COM(2003)302), the Commission further elaborated its strategy, setting out a number of actions to encourage improvement in a product's environmental impact throughout its lifecycle, and emphasising three dimensions: 'lifecycle thinking'; flexibility of policy measures; and stakeholder involvement. The Communication proposes to identify and stimulate action on products with the greatest potential for environmental improvement. This is to be carried out in three phases: Identify a first set of products with greatest potential for environmental improvement; assess possible ways to reduce the lifecycle environmental impacts of some of the identified products; and create policy measures for identified products.

Environmental Technologies Action Plan (ETAP)

Environmental technologies act as an important bridge between the Lisbon Strategy and the SDS with its potential contribution to economic growth, improving environmental protection and reducing depletion of natural resources. In 2004 the Commission adopted an Environmental Technologies Action Plan (ETAP) (COM(2004)38) which aims to boost the development and use of environmental technologies and improve European competitiveness in the area.

Action Plan for sustainable consumption, production and industrial policy

In July 2008, the Commission proposed a package of actions and proposals on sustainable consumption and production (SCP) and sustainable industrial policy (SIP) which aim to improve the environmental performance of products throughout their lifecycle and increase consumer awareness and demand for sustainable goods and production technologies. These proposals are an integral part of the renewed SDS and build on and complement existing EU policies, measures and instruments. The package consists of five elements: Communications on the SCP and SIP Action Plan (COM(2008)397) and on green public procurement (GPP) (COM(2008)400); proposals for Regulations revising the Community ecolabel scheme (COM(2008)401) and the Community eco-management and audit scheme (EMAS) (COM(2008)402) respectively; and a proposed revision of the Directive on eco-design (COM(2008)399). These legislative proposals are discussed below.

Eco-labelling and energy labelling

Regulation (EC) No 1980/2000 establishes a voluntary scheme for the award of eco-labels to products and services that meet certain environmental requirements and eco-label criteria. The scheme aims to promote products which have a reduced environmental impact compared with other products in the same product group, and to provide consumers with accurate and scientifically based information and guidance on products. In July 2008 the Commission presented a proposal to revise the eco-label Regulation (COM(2008)401) to simplify the process of awarding the eco-label and to extend the scope of the scheme - see section 2.8.1.

Directive 92/75/EEC introduced a Community wide energy labelling scheme for household appliances (white goods) whereby labels and information in product brochures provide potential consumers with energy consumption rates for all models available. In November 2008 the Commission presented a proposal to revise Directive 92/75/EEC (COM(2008)778) in order to extend its scope to a wider range of products including energy-using and other energy-related products.

Eco-design

Directive 2005/32/EC establishes a framework for the setting of eco-design requirements for energy-using products (EuP), amending Directives 92/42/EEC, 96/57/EC and 2000/55/EC on energy efficiency requirements for products such as boilers, computers or televisions. Several implementing measures of the EuP Directive have meanwhile been adopted by the Commission under a comitology procedure. In 2008 the Commission also presented a proposal to revise the EuP Directive to extend its scope to energy-related products other than energy-using products - see section 2.8.3.

Eco-management and audit (EMAS)

The Community eco-management and audit scheme (EMAS), established in 1993 and revised in 2001 by Regulation 761/2001/EC, is a voluntary EU system recognising organisations that strive to continually improve their overall environmental performance. EMAS establishes environmental policies, programmes and management systems, and requires their regular review or audit. It also makes more information on the environmental performance of participating organisations available to the public. In July 2008, the Commission proposed a revision to the EMAS Regulation (COM(2008)402) which aims to increase the participation of companies and reduce the administrative burden and costs to SMEs - see section 2.8.2.

Green public procurement (GPP)

In 2004, two new public procurement Directives (Directive 2004/18/EC and Directives 2004/17/EC) were adopted which aim to simplify, clarify and modernise procurement procedures. The Directives maintain the principles of non-discrimination and transparency and stress the possibilities outlined in the Commission's Communication on the possibilities for integrating environmental considerations into public procurement (COM(2001)274). In July 2008 the Commission presented a proposal to set targets for green public procurement linked to common green procurement criteria across Member States (COM(2008)400). This is in line with the target set within the renewed EU SDS to increase the average level of GPP in the EU by 2010 to the standard achieved by the best performing Member States in 2006.

Biotechnology

The EU has adopted several legislative measures aimed at the safe use of genetically modified organisms (GMOs) including a regulatory system on the deliberate release of GMOs into the environment and procedures for the authorisation, supervision and labelling of GM food and feed - further information on this topic can be found in section 2.9 of the Welcome Package on Food Safety. In 2002 the Commission presented a Communication entitled "Life sciences and biotechnology: A strategy for Europe" (COM(2002)27) which sets out policy orientations and actions. In 2007 the Commission undertook a mid-term review of the strategy (COM(2007)175) based on progress made since 2002 and a study requested by the European Parliament, which examines the economic, social and environmental consequences of biotechnology.

Nanotechnology

In 2005 the Commission presented a Communication entitled "Nanosciences and nanotechnologies: An Action Plan for Europe 2005-2009" (COM(2005)243) which defines actions for the "immediate implementation of a safe, integrated and responsible strategy for nanosciences and nanotechnologies". In order to make sure that all applications and use of nanosciences and nanotechnologies comply with the high level of public health, safety, consumers and workers protection, and environmental protection chosen by the Community, the Commission announced a regulatory review of EU legislation in relevant sectors (including REACH). To this end the Commission presented on 17 June 2008 the Communication "Regulatory aspects of nanomaterials" (COM(2008)366) in which it concluded that the risks in relation to nanomaterials can be dealt with under the existing legislative framework, but that existing legislation may have to be modified in the light of new information becoming available.

2 THEMATIC POLICY REVIEW FOR THE PERIOD 2004 - 2009

This chapter focuses on legislative measures proposed or adopted in the period 2004 - 2009. This section does not provide a comprehensive overview of every single piece of environmental legislation adopted in this period, but rather focuses on major items of legislation proposed in nine selected thematic areas: water protection and management; natural resources and waste; air pollution; harmful substances; biodiversity, nature conservation and soil; climate change; noise pollution; integrated product policy; and information, access to justice and environmental crime. These selected areas constitute the most sensitive sectors covered by the EP Environment Committee (ENVI).

2.1 Water Protection and Management

2.1.1 Management of bathing water quality

Introduction to Commission proposal

In October 2002 the Commission put forward a proposal for a revised bathing water Directive (BWD) (COM(2002)581) to replace the existing BWD (76/160/EEC). This revision was necessary to reflect advances in technical scientific knowledge, managerial experience, new approaches to public information and participation (in line with the Aarhus Convention), and to make the regulation of bathing waters compatible with the water framework Directive (WFD) (2000/60/EC). The revised BWD also complements the Directives on urban wastewater treatment (91/271/EEC) and on nitrates pollution from agricultural sources (91/676/EEC).

The Commission had already put forward an unsuccessful proposal for a revised BWD in February 1994 (COM(93)721) which was abandoned five years later due to the refusal of successive Council Presidencies to put it on the Council agenda.

Description of contents of adopted text

The EP proposed a number of amendments to the Commission's initial proposal and an amended proposal was issued in April 2004 (COM(2004)245). A conciliation procedure was initiated in October 2005. The final text was adopted in February 2006 following a third reading in the EP in January 2006.

Directive 2006/7/EC concerning the management of bathing water quality, repealing Directive 76/160/EC, requires Member States to annually identify all bathing water sites and define the length of the bathing season. The Directive establishes four categories for the quality of bathing waters ("excellent", "good", "sufficient", or "poor"). On the basis of water quality data compiled shortly before and during the bathing season, all bathing waters are classified into one of these categories. The water quality data comprises two microbiological monitoring parameters: Intestinal Enterococci and Escherichia coli. These data are complemented by visual inspection and an assessment of the proliferation of macro-algae and phytoplankton.

Bathing waters should at least have achieved the category "sufficient" by the end of the 2015 bathing season, and Member States shall take such realistic and proportionate measures as they consider appropriate with a view to increasing the number of bathing waters classified as "excellent" or "good". However, bathing waters may temporarily be classified as "poor" and still remain in compliance with the Directive if: adequate measures are taken to prevent bathers' exposure to the pollution; the causes for the classification as "poor" are identified; measures are taken to prevent, reduce or eliminate them; and information is adequately provided to the public.

As a basis for public information and long-term improvement of water quality, the Directive provides for the establishment of detailed profiles of each bathing water site, describing the characteristics of the bathing water, identifying sources of pollution, assessing the potential for proliferation of cyanobacteria, macro-algae and phytoplankton, as well as providing information on the monitoring point. These profiles shall be developed for the first time by 24 March 2011. The frequency of the reviews of the bathing water profiles depends on the classification of the bathing water sites.

Finally, the Directive includes an elaborate system to provide information to the public. Annual reports on the quality of bathing water across the EU are to be published⁴. The water quality is to be communicated by a simple sign on-site. A general description of the bathing site is to be provided in non-technical language. In the case of pollution, the causes of the pollution and the measures taken against them are to be communicated, and warnings or bathing bans are to be issued. Sources of further information must be indicated. Information is also to be publicly disclosed via the internet in several languages if appropriate.

Comparison between EP position and adopted text

The main disputed issues are summarised below.

- **Scope:** The spatial and temporal scope of the BWD was a critical issue. Including new recreational uses of waters, such as surfing, kayaking and windsurfing, would have required the scope of the Directive to be altered to include waters further off the shoreline than the currently effective 100 metres. The Commission had decided against including these new recreational uses of water, because this would have obliged Member States to significantly extend water quality protection, monitoring and management efforts. In contrast (in its first reading, 21/10/2003)⁵ the EP proposed to include waters further off the shoreline if their quality was directly endangered by a wastewater discharge through pipes. This was rejected by the Commission (in its modified legislative proposal, 05/04/2004) and the Council (in its common position, 20/12/2004).
- **Standard categories and parameters:** While the original proposal included only three categories of bathing water (“excellent”, “good” and “poor”) and required all bathing waters to achieve “good” status, the Council proposed a fourth category “sufficient” as a minimum requirement for compliance. The EP rejected the proposed fourth category. However, during the subsequent conciliation procedure, the EP accepted the additional category on condition that its threshold values would be made stricter, which represented a significant reduction in the risk to bathers of contracting health problems. Furthermore, the EP held the position that the “sufficient” category should be abolished after eight years, forcing Member States to achieve the category of “good” for all bathing waters. However, it was eventually agreed that the Commission would verify whether it would be appropriate to modify the standards or to phase out the “sufficient” classification when reviewing the Directive by 2020. During the conciliation procedure, the EP successfully asserted that the Commission should undertake an epidemiological study as a basis for the review of the Directive, including an analysis of viruses, and the report should be submitted in 2008 instead of 2018.

⁴ http://ec.europa.eu/environment/water/water-bathing/report_2008.html

⁵ [European Parliament legislative resolution on the proposal for a European Parliament and Council directive concerning the quality of bathing water](#) (COM(2002) 581 – C5-0508/2002 – 2002/0254(COD)).

- **Public Information and Participation:** The EP was especially active with regard to amendments concerning public information and participation. Proposals at first reading include on-site signage with information on the bathing site's profile and, in the case of poor water quality in general or as a result of an emergency or transitory contamination, information on the causes of pollution, measures taken, warnings or bathing bans. The EP also called for a more user-friendly approach to information via a simple Commission-approved standardised system of symbols to advise users on the current status of bathing water quality. Finally, the EP proposed the mandatory use of the internet as a medium for provision of information to the public, including making available the results of water inspections within a week. All amendments were accepted immediately by the Commission, except for the standardised symbols, which the EP proposed again at second reading⁶. It was finally agreed in conciliation that standard EU-wide signs and symbols would be placed at all bathing sites.
- **Compliance:** The new classification scheme was originally proposed to apply five years after the Directive's entry into force, i.e. by 2011. The Council, however, proposed to defer the compliance deadline to 2015 to synchronise it with the requirements of the WFD (in its common position, 20/12/2004). The EP failed in its attempt at second reading to tighten the deadline again by proposing a minimum standard compliance deadline in 2011.

2.1.2 Protection of groundwater against pollution and deterioration

Introduction to Commission proposal

Given significant difficulties in reaching an agreement on incorporating groundwater protection provisions into the WFD, a decision was taken to include a provision in the WFD (Article 17) stipulating that the EP and Council will at a future date and on the basis of a proposal from the Commission adopt specific measures to prevent and control groundwater pollution.

The Commission's proposal of September 2003 (COM(2003)550) only covered groundwater quality issues, given that quantitative issues had already been addressed in the WFD. The proposal established two categories – "good" and "bad" – for the chemical status of a groundwater body. Good groundwater chemical status would be achieved if the values for a set of ions or substances were below certain thresholds. Two of these parameters, called groundwater quality standards, were to be valid EU-wide, setting upper limits for nitrates and for pesticides (the latter denomination covering both plant protection and biocide products). Exceptions to the nitrate quality standard were defined for Nitrate Vulnerable Zones (as identified under the nitrates Directive (91/676/EEC)) in which the provisions of the nitrates Directive would apply. For other relevant pollutants, Member States would have to define "threshold values". Groundwater bodies with values exceeding groundwater quality standards or threshold values would be classified as having bad groundwater chemical status.

Description of contents of adopted text

A number of amendments were proposed to the Commission's proposal and a conciliation procedure was initiated in October 2006. The final text was adopted in December 2006 following a third reading in the EP in December.

⁶ [European Parliament legislative resolution on the Council common position for adopting a directive of the European Parliament and of the Council concerning the management of bathing water quality and repealing Directive 76/160/EEC](#) (12884/1/2004 – C6-0006/2005 – 2002/0254(COD)).

Directive 2006/118/EC on the protection of groundwater against pollution and deterioration contains several significant changes to the Commission's proposal. One of these relates to the EU-wide groundwater quality standard for nitrates which no longer foresees any exceptions. All pollutant limits, with the exception of nitrates and pesticides, are set by Member States, which are to define "threshold values" for those pollutants that contribute to the risk of groundwater bodies being at risk or not achieving good ecological status. These pollutant limits can be established at the national level, at river basin district level, or at the level of groundwater body or group of groundwater bodies. The Directive includes a minimum list of nine substances or ions and one pollution indicator (conductivity, indicating salt water intrusion) for which Member States must consider establishing threshold values. Good groundwater chemical status is achieved when the concentration of pollutants does not exceed the groundwater quality standards and threshold values at all monitoring points. If these values are exceeded at one or more monitoring points, the body can still be classified as having good groundwater chemical status if *inter alia* an investigation confirms that the pollution does not present a significant environmental risk (for example if it only affects a small area) or if the ability of the groundwater body to support human uses has not been significantly impaired.

The Directive also provides for a so-called "prevent-and-limit approach", which addresses inputs of pollutants into groundwater. Member States shall ensure that the programmes of measures to be established under the WFD include all measures necessary to prevent inputs into groundwater of any hazardous substances, and all measures necessary to limit inputs into groundwater of other pollutants not considered hazardous. The Commission is to review the annexes which establish the groundwater quality standards and threshold values every six years and if appropriate deliver proposals to amend these.

Comparison between EP position and adopted text

The main disputed issues are summarised below.

- **EU-wide harmonised environmental quality standards (EQS) for groundwater:** This was one of the main issues during negotiations on the Directive. At first reading⁷, the Rapporteur's suggestion for establishing these standards was rejected as MEPs backed the Commission's plan for Member States to set their own standards. A recital of the groundwater Directive however states the need for an analysis of the impact of different groundwater threshold values on the level of environmental protection and on the functioning of the internal market. Some view the periodic review process, in which MEPs play a role, as an opportunity to introduce future harmonised EQS. The review process was included in the Directive as a result of pressure from the EP.
- **Level of protection provided to groundwater bodies:** The EP aimed to avoid any "deterioration" of groundwater (i.e. any anthropogenically induced increase in concentration of pollutants in relation to the status quo in the groundwater). The Commission's opinion considered the key provisions which addressed deterioration in this sense as inconsistent with those of the WFD, which already prohibits degradation of a water body in the sense of it passing from a particular status to a worse one. Although this restriction is widely considered as providing adequate protection for surface water bodies for which there are a higher number of status categories; in the case of groundwater, with only two categories for chemical status, the non-degradation principle only prohibits a water body's passing from good chemical status to bad chemical status.

⁷ [European Parliament legislative resolution on the proposal for a directive of the European Parliament and of the Council on the protection of groundwater against pollution](#) (COM(2003)0550 – C5-0447/2003 – 2003/0210(COD)).

Thus the Directive does not address deterioration of groundwater within a category (for example good chemical status), and could allow pollutant levels to rise as long as they do not reach one of the established limits, which would imply degradation.

- **Relation to drinking water quality requirements:** The EP aimed to relate groundwater quality requirements with those for drinking water justifying this with the fact that groundwater is the primary source of drinking water supply. An amendment included the objective of protecting groundwater so that good quality drinking water could be achieved by simple purification. The Commission's opinion considered these requirements not to be in line with the objectives of the groundwater Directive which addresses environmental water chemical status. Another related amendment, stipulating that groundwater quality standards should be based on human and eco-toxicological criteria, was also rejected due to its alleged inconsistency with the WFD. Instead Article 3 of the groundwater Directive merely stipulates that threshold values shall take into account human toxicology and ecotoxicology knowledge.
- **Exceptions for nitrate vulnerable zones:** The Commission's original proposal included exceptions for the groundwater quality standard of 50 mg/l of nitrates in nitrate vulnerable zones. The less stringent requirements of the nitrates Directive would have applied in these zones - Member States would only have been required to reduce nitrate inputs if the 50 mg/l level were exceeded, with the level itself not being a binding limit. The EP was critical of this treatment of the biggest groundwater pollution problem in Europe. The amendment deleting this exception was approved by the EP at first reading, rejected by the Council, reinstated during the second reading⁸, and after a favourable Commission opinion, finally accepted during the conciliation process.
- **Hazardous substances:** The EP succeeded in making binding the requirements to prevent inputs of hazardous substances into groundwater. This amendment was proposed at first reading, rejected in the Council's common position, reinstated during the second reading, and after being accepted in the Council's opinion, passed during the conciliation process.

2.1.3 Environmental quality standards in the field of water policy

Introduction to Commission proposal

The WFD 2000/60/EC requires all EU waters to achieve good status by 2015. To this end it includes a new regime for the prevention and control of the chemical pollution of water and sets out a strategy for dealing with the chemical pollution of water (Article 16). As a first step of this strategy, a list of 33 priority substances was adopted in 2001⁹, identifying substances of priority concern at Community level that are especially persistent and harmful and tend to accumulate in the food chain. The list distinguishes between priority substances and priority hazardous substances. The former would have to meet maximum concentration limits in surface waters by 2015, while the latter would have to be phased out entirely by 2025. In June 2006, the Commission presented a proposal for a Directive on environmental quality standards in the field of water policy (COM(2006)397) which sets environmental quality standards for the 33 priority and priority hazardous substances.

⁸ [European Parliament legislative resolution on the Council common position for adopting a directive of the European Parliament and of the Council on the protection of groundwater against pollution](#) (12062/1/2005 – C6-0055/2006 – 2003/0210(COD)).

⁹ Decision 2455/2001/EC

Description of contents of adopted text

At second reading on 17 June 2008 the EP adopted a compromise package of 18 amendments to the Commission's proposal¹⁰. The final text was adopted in December 2008.

Directive 2008/105/EC on environmental quality standards in the field of water policy (hereafter referred to as the priority substances Directive) sets EQS which aim to ensure a high level of protection against risks to or via the aquatic environment from priority substances and certain other pollutants. EQS are concentrations of pollutants which should not be exceeded. In the context of the WFD, EQS define the environmental objective of 'good surface water chemical status' and thereby represent criteria for assessing compliance with the WFD. Member States are required to include measures in their River Basin Management Plans (RBMP) to ensure that EQS are met by 2015.

Annex II to the priority substances Directive constitutes a revision of the 2001 list of priority substances. The new list still contains 33 substances; however eight of them have been reclassified from priority substances to priority hazardous substances. Annex III lists 13 substances that have to be reviewed for possible identification as priority substances or priority hazardous substances. Typically, the concentration of priority substances is to be measured in free water; however Member States can opt to establish EQS for sediment and/or biota and apply those instead. Member States must ensure that concentrations of priority substances in sediment and biota do not significantly increase and must monitor concentrations in sediment and biota at least once every three years.

For substances measured in free water, Member States may designate mixing zones adjacent to points of discharge. Concentrations of one or more priority substances may exceed the relevant EQS within such mixing zones if they do not affect the compliance of the rest of the body of surface water. Member States that designate mixing zones must describe in their RBMP how they derived such zones and what measures they will take to reduce the extent of the mixing zones in the future.

Member States are required to establish an inventory of emissions, discharges and losses of all priority substances for each river basin district. This is to be based on monitoring data, information from the European Pollutant Release and Transfer Register, and other sources. The inventory of emissions is to be updated every six years together with impacts and pressure analysis according to Article 5 of the WFD. Member States are required to report on the implementation process regularly to the Commission, which in turn has to review the need to amend existing acts and to adopt additional Community-wide measures, for example emission controls.

Comparison between EP position and adopted text

The main amendments proposed by the EP at first reading (22/05/2007)¹¹ aimed to extend the scope of protection for surface waters and included:

- A list of 28 substances that should be subject to a review for identification as possible priority substances or priority hazardous substances;
- The reclassification of several priority substances to priority hazardous substances which should be phased out completely;
- Phasing out designated mixing zones by 2018 at the latest;

¹⁰ [European Parliament legislative resolution of 17 June 2008 on the Council common position with a view to the adoption of a directive of the European Parliament and of the Council on environmental quality standards in the field of water policy and amending Directives 82/176/EEC, 83/513/EEC, 84/156/EEC, 84/491/EEC, 86/280/EEC and 2000/60/EC](#) (11486/3/2007 – C6-0055/2008 – 2006/0129(COD)).

¹¹ [European Parliament legislative resolution of 22 May 2007 on the proposal for a directive of the European Parliament and of the Council on environmental quality standards in the field of water policy and amending Directive 2000/60/EC](#) (COM(2006)0397 – C6-0243/2006 – 2006/0129(COD)).

- Placing limits on the concentration of pollutants in sediments and living organisms, not just in surface water as initially proposed by the Commission;
- Further Community action if necessary to secure uniform implementation in Member States;
- A report on pollution caused by third countries.

The Council acknowledged many of the EP's amendments as beneficial and accepted them in full, in part or in principle (common position, 20/12/2007). However, the Council did not accept the amendments which introduced additional substances to the list or which changed the classification of 'priority hazardous substances'. Furthermore, the Council rejected all amendments which it claimed would have duplicated obligations already provided for under the WFD.

The final text contained a number of compromise amendments which included:

- A new Annex III that contains a list of 13 substances subject to review for possible identification as priority substance or priority hazardous substances. These are in addition to the substances already identified in Annex II;
- Addition of reporting obligations regarding measures taken with a view to reducing the extent of mixing zones;
- The inclusion of sediment and biota in the inventories of emissions, discharges and losses;
- The development of technical guidelines through comitology for mixing zones and inventories;
- An article on reporting and review; and
- An article on the future review of Annex X of the WFD.

One major step back from the original EP position concerns the number of substances subject to review for possible identification as priority substance or priority hazardous substances - only 13 out of 28 proposed substances were included in the adopted legislation. Furthermore, the Parliament's requirement that mixing zones should be phased out by 2018 at the latest was not adopted - the final text allows mixing zones to continue provided they are restricted to the proximity of the point of discharge and are proportionate in size.

2.1.4 Assessment and management of flood risks

Introduction to Commission proposal

Following a series of damaging floods in the late 1990s, Member State water Directors concluded at their meeting in November 2003 that there was a need for a concerted EU Action Programme to improve flood risk management. Based on this, the Commission published a Communication on flood risk management in July 2004 which outlined the essential features of an EU Action Programme (COM(2004)472). In October 2004, the Environment Council invited the Commission to put forward a proposal for a "European Action Programme on flood risk management" before mid 2005¹². Following a public consultation, the Commission presented a draft Directive on the assessment and management of floods on in January 2006 (COM(2006)15).

¹² See also Farmer, A. (2005). A European Union Directive on flood management. *Journal of Water Law*, 16: 85-89.

Description of contents of adopted text

At second reading on 25 April 2007, the EP approved the final package of 27 compromise amendments to the Commission's proposal¹³. The final text was adopted in October 2007.

The objective of Directive 2007/60/EC on the assessment and management of floods is to reduce and manage the risks which floods pose to human health, the environment, infrastructure and property. The Directive requires Member States to prepare flood risk maps for: (a) floods with a high probability (once in 10 years), (b) floods with a medium probability (once in 100 years), and (c) extreme events, indicating areas at risk of flooding and the indicative damage that could occur. The plans should address all phases of the flood risk management cycle, i.e. prevention, protection and preparedness, taking into account the characteristics of a particular basin or sub-basin. Due to the diversity of situations across Europe concerning geography, hydrology and settlement structure, Member States are given considerable flexibility regarding the level of protection required, measures to be taken and the timetables for implementing the flood risk management plans.

Comparison between EP position and adopted text

The main amendments proposed by the EP at first reading (13/06/2006)¹⁴ aimed to shift the focus of the Directive from the reduction of flood risks to the management of such risks, and included:

- Strengthening the link to environmental objectives laid down in other Community legislation in force, particularly the WFD;
- Widening the scope of the proposed risk assessment to flood risk management measures and to the assessment of the effectiveness of existing man-made flood defence infrastructures;
- The need to prepare 'flood risk maps' for identified river basins, sub-basins and stretches of coastline, outlining the different levels of vulnerability, threats to human health and the environmental impact of floods that should be taken into account in land use planning; and
- Better reflection of upstream-downstream issues, including cooperation between Member States when implementing the Directive following a river basin approach.

The Council acknowledged the need for Member States to better coordinate their efforts on flood plains but left out many of the EP's amendments related to the details to be included in the proposed plans (common position, 23/11/2006).

The final text contained a number of compromise amendments which included:

- Member States are to complete the preliminary flood risk assessment by 22 December 2011;
- Flood risk management plans established in one Member State should not include measures which, by their extent and impact, significantly increase flood risks in other countries in the same river basin or sub-basin, unless these measures have been coordinated and a solution has been agreed upon between the Member States concerned;
- The impact of climate change should be taken into account in the Commission's report on implementation to be drawn up in 2018;

¹³ [European Parliament legislative resolution of 25 April 2007 on the Council common position with a view to the adoption of a directive of the European Parliament and of the Council on the assessment and management of flood risks](#) (12131/6/2006 – C6-0038/2007 – 2006/0005(COD)).

¹⁴ [European Parliament legislative resolution on the proposal for a directive of the European Parliament and of the Council on the assessment and management of floods](#) (COM(2006)0015 – C6-0020/2006 – 2006/0005(COD)).

- Flood risk management plans should consider, where possible, the maintenance and/or restoration of floodplains, as well as measures to prevent and reduce damage to human health, the environment, cultural heritage and economic activity;
- Member States should take account of the potential impact of their land use policies on flood risks. In addition, management plans should include measures to encourage land use practices which are sustainable and improve water retention;
- Flood risk maps must include information on potential sources of environmental pollution as a consequence of floods; and
- Member States should base their assessments, maps and plans on appropriate best practices and best available technologies not entailing excessive costs in the field of flood risk management.

The EP succeeded in its efforts to include most of the requested amendments in the final text. The main missing elements in terms of management requirements in the final adopted legislation mainly refer to the following issues:

- The flood risk plans only have to be 'established', but there is no formal requirement to implement them;
- The Parliament's demand for flooding from sewers to be included in the Directive was dropped during final negotiations; and
- Member States are not obliged to follow a specific priority approach as requested by the EP.

2.1.5 Marine environmental policy

Introduction to Commission Proposal

In October 2005 the Commission presented a proposal for a Directive establishing a framework for Community action in the field of marine environmental policy (COM(2005)505). The proposal was presented alongside the TS on the marine environment (see section 1.4) and is expected to deliver the environmental component of the EU's integrated maritime policy (COM(2007)575). The proposed Directive aims to establish an integrated policy for the protection of the European marine environment, to promote the sustainable use of the seas, and to conserve marine ecosystems.

Description of contents of adopted text

A compromise agreement between the EP and Council on the proposed Directive was reached at second reading. The final text was adopted in June 2008.

Directive 2008/56/EC establishing a framework for community action in the field of marine environmental policy (marine strategy framework Directive) aims to achieve good ecological status of European marine regions by 2020. The Directive requires Member States to develop marine strategies specific to their own waters while reflecting the overall perspective of the marine region or sub-region concerned. An ecosystem-based approach to the management of human activities is to be applied, with priority placed on the sustainable use of marine goods and services. The Directive's Annexes list the qualitative descriptors for determining good ecological status, characteristics, pressures and impacts to be taken into account, and requirements for monitoring programmes.

When implementing the Directive, every effort should be made to ensure close cooperation with all riparian Member States or those within the catchment area of a marine region, as well as surrounding third countries. Existing international marine conventions and institutional structures should be used to ensure coordination. Other Community Directives (such as the WFD, the habitats Directive and the birds Directive) and the establishment of marine protected areas provide an important contribution to the marine strategy Directive. Implementation of the Directive may be speeded up in regions considered to be in a critical state.

Member States are not however required to take actions if the marine environment is not in danger, or if the costs of taking action would be disproportionate. In addition, the Directive foresees special situations or areas where the targets of good environmental status cannot be achieved. Such special cases concern situations where a Member State cannot meet the target due to an action or inaction for which it is not responsible; or because of natural causes or *force majeure*; or cases where the public interest overrides the negative impact on the environment. Special cases may also occur when an issue cannot be tackled through national actions or is linked to another Community policy or an international agreement.

Comparison between EP position and adopted text

The EP proposed a number of amendments to the Commission's proposal¹⁵ that were subsequently reflected in the adopted text, including:

- Ensuring that the objectives and results of the Directive were legally binding;
- The inclusion of a definition of good ecological status;
- Use of the ecosystem-based approach;
- Clarifying the geographical coverage of the Directive to include the Black Sea marine region and coastal waters in so far as they are not already addressed through the WFD;
- Clarifying the link to other relevant Directives and international agreements;
- The requirement for cooperation between Member States for developing and implementing marine strategies regionally;
- The application of consistent assessment methodologies across the marine region or sub-region;
- The requirement of taking account of transboundary impacts and features;
- The requirement of coordinated and compatible monitoring programs within a marine region or sub region;
- The introduction of pilot project regions;
- Requiring Member States to prove that there is no further deterioration of the marine environment and that the achievement of good environmental status is not permanently compromised, in exceptional cases where achieving good ecological status within the time-schedule is not possible;
- Bringing forward the timetable for implementation.

A number of EP amendments were not adopted in the final text, including: the call for a single joint strategy to be produced per marine region; granting certain marine regions a special status (for example the Baltic Sea); compulsory designation of marine protected areas; amendments calling for *ad hoc* financial support for implementation of the Directive; measures to improve the environmental status of waters beyond EU jurisdiction by controlling activities within the Community or Member States; and making assessment and monitoring data available to the EEA and relevant regional marine and fisheries organisations and conventions to facilitate the creation of a central database.

The Directive is not integrated with other EU policies such as the CAP and the Common Fisheries Policy (CFP), even though many of the required actions are affected by such other policies and legislation. Its full effectiveness would require the Directive's objectives to be embedded in these relevant policies.

¹⁵ [European Parliament legislative resolution on the proposal for a directive of the European Parliament and of the Council establishing a Framework for Community Action in the field of Marine Environmental Policy \(Marine Strategy Directive\)](#) (COM(2005)0505 – C6-0346/2005 – 2005/0211(COD)).

2.2 Natural Resources and Waste

2.2.1 Waste Directive

Introduction to Commission proposal

The Commission's December 2005 proposal for a Directive on waste (COM(2005)667) differs fundamentally from the final text of the adopted Directive on waste 2008/98/EC. The Commission's proposal was primarily aimed at integrating the text of the waste framework, hazardous waste, and waste oils Directives, and focused on clarifying definitions and objectives, adding limited new procedures on determining when waste ceases to be waste and minimum standards for waste management operations, and the introduction of waste prevention programmes. The proposal also put forward some substantive amendments to the waste framework Directive; however these were relatively limited in scope. Amendments to the Commission's proposal were so extensive that the final Directive no longer reflects the format of the original text. This was largely due to the extensive work by the EP.

Description of contents of adopted text

Following extensive negotiations, agreement was reached at second reading. The final text was adopted in November 2008.

Directive 2008/98/EC on waste sets a new baseline for future EU waste policy. The Directive aims to clarify the definition of key terms and requirements in the waste field; moreover, it sets out new targets for the recycling of waste and places greater emphasis on the prevention of waste. On 12 December 2010 the Directive will repeal the current waste framework Directive (75/442/EEC as amended), the hazardous waste Directive (91/689/EEC) and the waste oils Directive (1975/439/EEC).

The Directive contains extensive new requirements, the key elements of which are outlined below:

- A five step **waste hierarchy** - prevention, preparing for reuse, recycling, other recovery, and disposal - is defined as a priority order, to be abided by in waste management legislation;
- The **emphasis on prevention** is increased with Member States required to establish national waste prevention programmes and to report, by 2015, on the setting of waste prevention and decoupling objectives for 2020;
- **Reuse is redefined**, clarifying that this is an activity applied to products and components that are not waste. A new concept, 'preparing for reuse', covers processes by which waste products are prepared for reuse without pre-processing;
- **A new definition of recycling** is included. While this still focuses on the reprocessing of materials, it is now linked to the definition of recovery and excludes backfilling and the reprocessing of waste materials into fuels;
- There are **new definitions for recovery and disposal**, although these are still based largely on the non-exhaustive lists of activities; incineration activities for processing municipal solid waste can be classed as recovery operations provided they generate energy above a given efficiency threshold;
- **Separate collection** of paper, metal, plastic and glass must be in place by 2015;
- **New targets** state that by 2020 Member States must take all necessary measures to ensure that at least 50% of paper, plastics, metal and glass from households and similar origins is prepared for reuse or recycled and that 70% of non-hazardous construction and demolition waste is reused, recycled or undergoes material recovery;

- **Extended producer responsibility** provisions are introduced, empowering Member States to make producers responsible for managing and financing the treatment of waste;
- **The differences between waste and by-product and when waste ceases to be waste** are clarified, and end-of-waste criteria will be established for aggregates, paper, glass, metal, tyres and textiles;
- The collection and treatment of **biowaste** is promoted, along with the environmentally safe use of resultant materials and the requirement for the Commission to consider a possible future Directive on this subject;
- The possibility to adopt new **technical minimum standards for treatment** activities requiring a permit is introduced. These will include best-available techniques (BAT) and key environmental impacts setting standards for the quality of treatment and the process requirements; and
- Derogations from the **ban on mixing hazardous** and other wastes are applied to enable mixing, provided that activities are permitted, the environment and human health are protected and mixing operations conform to BAT.

Importantly, several existing elements fundamental to the robust implementation of waste law in Europe are retained. These include:

- The definition of waste;
- Basic requirements for permits to carry out waste treatment activities, with Member States having the ability to exempt certain disposal and recovery operations;
- Requirements for the inspection of waste-treatment operations and those collecting or transporting waste;
- The requirement for Member States to establish waste-management plans;
- The requirement to manage hazardous waste in a way that protects human health and the environment; and
- The requirement to collect and manage waste oils separately.

Comparison between EP position and adopted text

The final text of the Directive sets out new goals for the delivery of improved waste management in Europe and represents a marked shift from the Commission's original proposal which demonstrated a limited attempt to clarify and streamline waste law in Europe. The vast majority of changes to the proposal were based on initiatives of the EP¹⁶, albeit refined and expanded during discussions with the Council¹⁷.

The EP's main objective was to deliver a Directive that more clearly put Europe on track to deliver a recycling society and to increase the emphasis upon prevention of waste. The EP's most significant achievement was the addition of reuse, recycling and recovery targets for 2020. These were not present in any form in the Commission's original proposal and met with resistance from Member States. A second important victory for the Parliament was the inclusion in the Directive of the five step waste hierarchy as a "priority order", which may only be departed from to deliver the best environmental outcome based on lifecycle assessment. While MEPs had originally wanted the hierarchy to be considered a "general rule" the Council wanted the much weaker wording of a "guiding principle".

¹⁶ [European Parliament legislative resolution on the proposal for a directive of the European Parliament and of the Council on waste](#) (COM(2005)0667 – C6-0009/2006 – 2005/0281(COD))

¹⁷ [European Parliament legislative resolution of 17 June 2008 on the Council common position with a view to the adoption of a directive of the European Parliament and of the Council on waste and repealing certain Directives](#) (11406/4/2007 – C6-0056/2008 – 2005/0281(COD))

In addition, the Council also wanted greater scope to deviate from the hierarchy than is permitted within the final text. The novel concept of “priority order” is a compromise, the legal effects of which are as yet uncertain.

On prevention, MEPs succeeded in adding requirements for the Commission to report on EU waste generation and the scope of waste prevention efforts, producing proposals for waste prevention and decoupling by 2020. While this falls short of the EP’s original ambition to set binding targets for the stabilisation of waste generation in Europe by 2012, the Directive’s requirements put in place a basis for future action.

At the insistence of the EP the Directive also sets out a basis for future action to address the question of biowaste management. However, the clauses set out in the Directive on biowaste management are much weaker than comparable requirements adopted by the EP at first reading. Under the EP amendments it would have been mandated that priority be given to the material recovery of biowaste and, three years after the entry into force of the Directive, that all Member States develop a system for the separate collection of biowaste. The EP also called for a firm commitment to a legislative act exclusively focused on promoting the recycling of biowaste, to be delivered by June 2008. The latter was converted to a weaker clause stating that the Commission “shall carry out an assessment on the management of bio-waste with a view to submitting a proposal if appropriate”.

2.2.2 Batteries and accumulators

Introduction to Commission proposal

In 2003, the Commission put forward a proposal for a Directive on batteries and accumulators and waste batteries and accumulators (COM(2003)723) to update and at the same time repeal Directive 91/157/EEC. The adopted Directive 2006/66/EC sets out rules regarding the placing on the market of batteries and accumulators, specifically prohibiting their containing certain hazardous substances. It also lays down rules for the collection, treatment, recycling and disposal of waste batteries and accumulators. Together these provisions aim to improve the environmental performance of batteries and accumulators and the activities of all economic operators involved in their lifecycles.

Description of contents of adopted text

The final text of the Directive was hard fought with extensive conciliation discussions required. The final text was adopted in September 2006 following a third reading in the EP in July.

Directive 2006/66/EC on batteries and accumulators and waste batteries and accumulators aims to maximise the separate collection of waste batteries and accumulators and to minimise the disposal of batteries and accumulators as mixed municipal waste in order to achieve a high level of recycling. The Directive sets targets for minimum recycling efficiencies to be achieved by 2010: 65% of lead acid, 75% of nickel cadmium and 50% of other waste batteries and accumulators. Targets are also set for minimum collection rates for spent batteries of 25% by 2012 and 45% by 2016. All batteries collected must be treated and recycled to the specified efficiency levels, although some limited exemptions apply.

Under the Directive producer responsibility requirements apply, making those who place batteries on the market responsible for financing any net costs arising from the collection, treatment and recycling of waste batteries and accumulators. Distributors of batteries and accumulators are required to take them back free of charge. They are also required to finance the costs arising from public information campaigns on the collection, treatment and recycling of portable batteries and accumulators. Moreover, the Directive sets out new requirements for the labelling of batteries ensuring they provide information to consumers about the capacity of the battery and if significant quantities of a given hazardous substance are present.

The Directive has the objectives of improving waste management and simultaneously improving the environmental performance of the product and its production process. As such there is a requirement to promote the improvement of the environmental performance of batteries and accumulators and to substitute particular substances of concern, namely mercury, cadmium and lead. More specifically Member States are required to prohibit the placing on the market of batteries or accumulators that contain more than 0.0005% of mercury by weight and portable batteries or accumulators that contain more than 0.002% of cadmium by weight. For button cell batteries 2% of mercury by weight is permitted.

During codecision the proposed Directive was amended in several areas fundamental to the achievement of its aims, including:

- The baseline for targets on collection;
- The tightening of exemptions from the requirement to recycle and treat all collected batteries;
- Definitions for the different types of battery and accumulator;
- The extension of producer responsibility to incorporate financing of information campaigns; and
- The requirement for distributors to set up schemes for the free take back of batteries and accumulators.

Perhaps the most significant amendment to the proposal was the hard won requirement that Member States shall not permit batteries and accumulators containing more than 0.002% of cadmium to be placed on the market. There was no limit value for cadmium in the Commission's original proposal despite the significant use of cadmium in batteries. The possibility of such a limit, debate over the costs and benefits and availability of alternatives were central to negotiations between the Council and Parliament.

Comparison between EP position and adopted text

The EP aimed to improve the level of environmental protection delivered by the Directive and provide greater clarity over targets, thus improving enforceability¹⁸. In recognition of concerns expressed by environmental NGOs the EP pressed to improve the coverage of the Directive, vitally championing the inclusion of a limit value for cadmium. The EP also wanted to include a similar limit value for the lead content of batteries, but this was ultimately rejected by the Council.

The EP's efforts also helped to clarify the baseline for the calculation of collection targets. The Commission had initially proposed that these be based on a minimum average collection rate equivalent to 160 grams per inhabitant per year; the EP converted this into a proportion of all batteries placed on the market. This basis was accepted by Member States; however, the EP's proposal for target levels of 40% within six years of adoption and 60% within 10 years was rejected in favour of the 25% and 45% targets which appear in the final Directive.

During negotiations the recycling efficiency for all other batteries and accumulators (lead-acid and nickel cadmium have their own targets) was reduced from 55% to 50% during conciliation at the insistence of the Council. The EP did however achieve some significant gains in addition to the inclusion of the cadmium limit. These include:

- That appliances be designed to ensure the easy removal of spent batteries and accumulators;
- That distributors be required to establish take back schemes and inform end users regarding the options for disposal;

¹⁸ [European Parliament legislative resolution on the proposal for a European Parliament and Council Directive on batteries and accumulators and spent batteries and accumulators](#) (COM(2003) 723 – C5-0563/2003 – 2003/0282(COD)).

- That producers be made responsible for the costs associated with the collection, treatment and recycling of waste batteries and accumulators, regardless of when these were placed on the market (essentially ensuring account is taken of 'historical' waste);
- That producers are financially responsible for costs associated with public information campaigns;
- That battery labels include information on capacity; and
- That producers use BAT "in terms of the protection of health and the environment" for the treatment and recycling of waste.

The EP failed to ensure the inclusion of a limit for the lead content of batteries and accumulators. Within its proposed amendments, the EP also suggested that fuel cells be promoted over and above heavy metal intensive batteries and accumulators. While perhaps highlighting fuel cells alone may place undue faith in this emerging technology, it does raise the question of the Directive's consideration of alternatives or substitutes for battery technologies. Directive 2006/66/EC is very much focused on improving the use of batteries and accumulators and the recycling of these products; what it fails to address effectively is the minimisation of the use of batteries and accumulators or issues relating to waste prevention.

2.2.3 Management of waste from extractive industries

Introduction to Commission proposal

Waste from extractive industries represented an estimated 29% of the total waste generated across the EU in 2005. Major European disasters have also been linked to the extractive industry. In response to these twin challenges the Commission put forward a proposal for a Directive on the management of waste and extractive industries (COM(2003)319) in June 2003.

Description of contents of adopted text

A number of amendments were proposed to the Commission's proposal and a conciliation procedure was initiated in October 2005. The final text was adopted in March 2006 following a third reading in the EP in January.

Directive 2006/21/EC on the management of waste from extractive industries (the mining waste Directive) outlines provisions for the management of waste from the "prospecting, extraction, treatment and storage of mineral resources and the working of quarries" (excluding offshore activities), requiring them to be "managed without endangering human health and without using processes and methods which could harm the environment" in particular "water, air, soil, fauna and flora and landscape". The Directive aims to reduce the environmental impact of mining, reduce the hazardousness of the waste generated, encourage the prioritisation of recovery and recycling, and allow the minimisation of the quantities of waste for disposal. Importantly the Directive not only covers current disposal of mining waste but also historical deposits and the aftercare of existing sites - vital elements for ensuring environmental and health protection.

Under the Directive operators of waste management facilities are required to develop waste management plans and "major accident prevention policies" and provide a "financial guarantee" covering both operation and after-closure phases. Details of permitting, inspection, monitoring and closure requirements are also outlined. Operators must hold a permit to perform activities and the waste management plan for a facility is an essential element of the permit. As with other industrial legislation, permits should be periodically reviewed and updated as necessary.

Given the background to its development, an essential element of the Directive focuses on major accident prevention. There are also specific requirements set in terms of reduction in the level of dissolved cyanide in ponds linked to mining. Historical mining waste deposits are known to have potentially significant environmental impacts, in some cases much more so than existing sites. The Directive, therefore, requires Member States to develop an inventory of historical sites, including abandoned waste facilities that either represent a threat to the environment and human health or have the potential to threaten these in the short to medium term.

The final text of the Directive differs substantially from the original proposal. Fundamental differences between the proposal and the final Directive include: a broader scope of the latter, with provisions that more extensively cover waste associated with mining and prospecting; the requirement to develop a list of historical waste disposal sites; extension of environmental protection requirements when dealing with extraction voids; increased emphasis on managing sites during their closure and after-closure phases to ensure protection is maintained; and the strengthening of transitional arrangements to ensure no further deterioration in the state of environmental and health protection while Member States implement the Directive's provisions.

Comparison between EP position and adopted text

While both the EP and Council worked to improve and strengthen the Directive, amendments put forward by the EP were most decisive in the evolution from proposal to final legislative act. In response to criticism of the Commission's original proposal, the EP put forward a substantial number of amendments to the proposal (75 at first reading)¹⁹.

MEPs were particularly concerned about historical and closed waste facilities. As a consequence, the EP added clauses pertaining to after-closure care and the responsibility of operators to maintain, survey and monitor former sites to ensure that environmental damage is limited in the long term. The EP also added the requirement for Member States to produce inventories of closed sites classified according to the degree of their impact on human health and the environment; that rehabilitation of the most polluted sites should commence within four years of the Directive's entry into force; and that the costs should be borne by the waste producer "insofar as the latter is known and available". The EP also promoted the consideration of waste to be fully integrated into the planning for extraction facilities with requirements added to ensure consideration of waste management at the design stage of a development. Finally, the EP called for the significant strengthening of transitional arrangements to avoid the deterioration in environmental status prior to the Directive's binding requirements being fully applied.

In its common position the Council accepted many of the EP's amendments. Despite the apparent wish of both the Council and EP to strengthen the Directive, it took three years and a conciliation Committee to reach agreement on the final text. One major issue of contention was the EP's proposal that an inventory of historical and abandoned waste sites be developed and, importantly, that the remediation of sites considered to pose a significant pollution risk would commence within four years of the Directive's entry into force. Ultimately a compromise was reached whereby the requirement to develop an inventory remains. The remediation of high-risk sites based on a specific timetable was however dropped, as Member States were wary of the costs this might entail. The final conciliation report notes that the inventory information could form the basis of the development of further legislation on this subject.

¹⁹ [European Parliament legislative resolution on the proposal for a European Parliament and Council directive on the management of waste from the extractive industries](#) (COM(2003) 319 – C5-0256/2003 – 2003/0107(COD))

Despite the Council's rejection of a timeline for historical site remediation, other elements of the compromise were much more sympathetic to the Parliament's position. The final text on the financial guarantees to cover operator liabilities reflects the EP's concern that this not only cover the waste facility itself but also the land affected by the waste facility.

2.2.4 Waste from electrical and electronic equipment (WEEE)

Introduction to Commission proposal

Directive 2002/96/EC promotes the prevention, recovery and recycling of waste electrical and electronic equipment (WEEE). Implementation of the existing Directive has been fraught with difficulties. The Commission's proposed recast of the WEEE Directive (COM(2008)810) put forward in December 2008 followed a review of the Directive's performance and also importantly takes into account the changes made to definitions and requirements set out in the new Directive on waste (2008/98/EC).

Many of the amendments proposed directly respond to the concerns of industry, national governments and regulators regarding the challenges of delivering the existing WEEE Directive. Importantly the proposal, in combination with the amendments to the RoHS Directive set out in COM(2008)809 (see section 2.2.5) aim to clarify the relationship between the WEEE and the RoHS Directives. WEEE and RoHS both deal with electrical and electronic equipment (EEE), the former regulating the management of waste and the latter intended to reduce the hazards of the supply chain through the establishment of restrictions on the use of certain substances in EEE production.

Description of contents of Commission proposal

Some of the key changes proposed to the WEEE Directive include:

- Annex 1A and 1B which helps to define the scope of WEEE and RoHS will be removed from the WEEE Directive and set out only in the RoHS Directive (which is based on the internal market article of the Treaty-Article 75). The WEEE Directive would then cross-refer to this. This is intended to provide greater clarity in terms of coverage of the two measures;
- Definitions within the Directive have been altered to reflect the definitions set out in the new Directive on waste. The WEEE Directive is now purely a waste-focused Directive covering the preparation for reuse, recycling and recovery as defined in the Directive on waste. This means that the baselines for the targets will be altered, as previously these encompassed the reuse of WEEE;
- The collection target under the WEEE Directive has been remodelled: this will now require a 65% collection rate by 2016, based on the volume of EEE placed on the market. This will provide a much clearer baseline compared to a previous target of 4kg of WEEE to be collected per household, considered by many to be disconnected from the real level of WEEE production across Member States. Moreover, the new Directive would require Member States to ensure producers achieve the 65% target, rather than the Member States themselves being responsible, thereby increasing the onus on EEE producers;
- Ensuring the treatment of collected waste is a priority of the recast proposal given that while a significant proportion of WEEE is currently collected in Europe, there are concerns that this is not being managed effectively, leading to inappropriate disposal or potentially illegal export to third countries. Article 8 of the proposal would now require that all separately collected WEEE undergoes pre-specified treatment actions; and
- The recovery targets set by the WEEE Directive would be altered and simplified. By 2011 producers would have to meet the following minimum targets for the recovery of separately collected waste:
 - For WEEE under categories 1 and 10: 85% shall be recovered, and 80% shall be prepared for reuse and recycled;
 - For WEEE under categories 2, 5, 6, 7, 8 and 9: 75% shall be recovered and 55% shall be prepared for reuse and recycled;

- For WEEE under categories 3 and 4: 80% shall be recovered and 70% shall be prepared for reuse and recycled;
- For gas discharge lamps, 85% shall be prepared for reuse and recycled.

It should be noted that the targets for each category would be increased relative to those currently in force. Importantly, with the amendment of the basis for the separate collection of WEEE and the shift from targets based on reuse and recycling to preparing for reuse and recycling, the baselines would be altered under the new system. 'Preparing for reuse' and 'reuse' are two fundamentally different processes and it is uncertain whether simply switching to the former will deliver the equivalent level of environmental protection in the EU. Moreover, the shift means that the WEEE Directive would in future wholly focus on waste management rather than waste prevention – previously dealt with by the consideration of reuse. Importantly, the definition of the term 'preparing for reuse' contains no requirement that a product is actually reused, just that "products or components of products that have become waste are prepared so that they can be re-used without any other pre-processing".

Comparison between EP position and Commission proposal

The EP's position will be defined under the new legislature 2009-2014.

2.2.5 Restriction of use of certain hazardous substances in electrical and electronic equipment (RoHS)

Introduction to Commission proposal

Directive 2002/95/EC seeks to restrict hazardous substances in EEE so as to contribute to the protection of human health and to the environmentally sound recovery and disposal of WEEE in accordance with Directive 2002/96/EC on WEEE. Member States and industry have faced significant challenges in implementing the requirements of the RoHS Directive. There has been a lack of clarity of the scope of the measure and disparities in its application by different Member States. When conceived the RoHS Directive was a companion to the WEEE Directive. While there is a body of EU legislation controlling the management and recovery of waste from specific product streams, only in the case of EEE are waste recovery requirements and restrictions upon the use of hazardous substances laid down in two separate Directives (WEEE and RoHS respectively). This separation of core elements and the lack of explicit provisions on the scope of the RoHS Directive have led to confusion concerning the application of the two interlinked measures.

Moreover, the adoption of the REACH Regulation (1907/2006/EC) has given rise to questions over potential overlaps between RoHS and REACH and in particular different approaches to substitutions and exemptions under RoHS. The Commission's proposal for the recasting of RoHS (COM(2008)809) put forward in December 2008 aims to address the uncertainty over its relationship with WEEE and its scope as well as aligning RoHS methodologies with those set out under other key measures such as REACH.

Description of contents of Commission proposal

In the interest of clarifying the coverage and ensuring more consistent application of the RoHS Directive, the recast proposes to define its scope through an Annex to the RoHS Directive itself rather than by reference to the scope of the WEEE Directive. Moreover, detailed new definitions are provided to clarify the meaning of key terms which are often copied from other relevant legislation. An important new addition to the definitions is that of "homogenous material" - a concept which had caused considerable problems in the implementation of the Directive.

Rules on the exemption of products from the restrictions set out under RoHS are also clarified. Finally, the proposal, in line with the developments on the marketing of products, sets out much more clearly the obligations to be placed on the different actors in the supply chain in terms of implementing the requirements under the Directive. Specific obligations are now set out for manufacturers, their authorised representatives, importers and distributors. This is intended to clarify confusion as to who is responsible for meeting the obligations of the Directive, taking into account past difficulties in this area.

Comparison between EP position and Commission proposal

The EP's position will be defined under the new legislature 2009-2014.

2.3 Air Pollution²⁰

2.3.1 Ambient air quality

Introduction to Commission proposal

In September 2005, the Commission put forward a proposal for a Directive on ambient air quality and cleaner air for Europe (COM(2005)447) which was designed to merge the existing framework Directive (96/62/EC) and four other legislative instruments²¹. The main aim was to revise and simplify existing EU legislation on ambient air quality which applies minimum standards of air quality across the Community. In addition, the proposal introduced some substantial changes to existing provisions so as to incorporate the latest health and scientific developments and the experience of the Member States.

Description of contents of adopted text

Agreement on the proposed Directive was reached at second reading and the final text was adopted in May 2008.

Directive 2008/50/EC of on ambient air quality and cleaner air for Europe includes the following elements:

- The merging of most relevant existing legislation into a single Directive with no change of established air quality objectives, in particular for PM₁₀;
- New air quality objectives for PM_{2.5} including the limit value and exposure related objectives – exposure concentration obligation and exposure reduction target;
- The possibility to subtract the contribution from natural sources of pollution when assessing compliance against limit values; and
- The possibility for time extensions of three years (PM₁₀) or up to five years (NO₂, benzene) for complying with limit values, based on conditions and assessment by the Commission.

Regarding information and reporting, Member States are to make annual reports for all pollutants covered by the Directive available to the public. These reports are to summarise levels exceeding limit values, target values, long-term objectives, information thresholds and alert thresholds, for the relevant averaging periods.

²⁰ An analysis of the proposed revision to the fuel quality Directive (COM(2007)18) and the proposed new Regulation on setting emissions performance standards for new passenger cars (COM(2007)19) can be found in section 2.6 on the climate and energy package.

²¹ The five separate legal instruments to be merged into a single Directive are the Council Directive 96/62/EC on ambient air quality assessment and management, the Council Directive 1999/30/EC relating to limit values from sulphur dioxide nitrogen dioxide and oxides of nitrogen, particulate matter and lead in ambient air, the Directive 2000/69/EC of the European Parliament and of the Council relating to limit values for benzene and carbon monoxide in ambient air, the Directive 2002/3/EC of the European Parliament and the Council relating to ozone in ambient air and the Council Decision 97/101/EC establishing a reciprocal exchange of information and data from networks and individual stations measuring ambient air pollution within the Member States.

In 2013 the Commission is to review the provisions related to PM_{2.5} and, as appropriate, other pollutants, and shall present a proposal to the EP and the Council. As regards PM_{2.5} the review shall be undertaken with a view to establishing a legally binding national exposure reduction obligation in order to replace the national exposure reduction target and to review the exposure concentration obligation. The Commission shall take into account the feasibility of adopting a more ambitious limit value for PM_{2.5}, and shall review the indicative limit value of the second stage for PM_{2.5} and consider confirming or altering that value. As part of the review, the Commission shall also prepare a report on the monitoring of PM₁₀ and PM_{2.5}, taking into account technical progress in automatic measuring techniques. If appropriate, new reference methods for the measurement of PM₁₀ and PM_{2.5} shall be proposed.

Comparison between EP position and adopted text

Almost half of the EP's amendments adopted at first reading²² were taken on board either verbatim, in part, or in spirit by the Council. An agreement reached with the Council led to the approval of all EP amendments at second reading.

The EP proposed an amendment modifying the Commission's proposal to keep the annual limit value for PM₁₀ at 40µg/m³ unchanged after 2010. The EP wanted a 33µg/m³ annual limit value instead (approximately 20% less). Given that the daily limit value for PM₁₀, according to which 50 micrograms may be exceeded on at most 35 days in the year, had come in for forthright criticism, the EP also endorsed a compromise proposal according to which cities and municipalities struggling to stay in line with the annual limit value would, in tandem with a reduction in the annual limit value of approximately 20%, be allowed under certain conditions rather more flexibility and permitted not to comply with a limit value on a maximum of 55 rather than 35 days. In the final text adopted, the standards for PM₁₀ remained unchanged in accordance with the original Commission proposal. The Council did not accept any changes to the provisions regarding the existing daily and yearly limit values of PM₁₀ in Annex XI and rejected the EP's proposal to link any derogation with the adoption of additional Community measures on the sources of pollution (arguing that it is very difficult to demonstrate the link between the non-entry into force of the Community measures and the non-attainment of the limit values).

The EP proposed a two-stage regulation for PM_{2.5}: a target value from 2010 onwards and a limit value with effect from 2015 ("five years later at most, with the review of the Directive"). The EP recommended that because there is a lack of experience in measuring PM_{2.5} and a shortage of reliable data, no limit value should be set from the outset. There was agreement between the Council and the EP on regulating PM_{2.5} in two phases. The Council endorsed the EP's amendment stipulating that a target value for PM_{2.5} in 2010 be replaced by a binding limit value in 2015. While they agreed on the two-stage approach, the EP and the Council differed on the target itself. The EP proposed a target value of 20µg/m³, whilst after the first reading the Council still opted for a less stringent value of 25µg/m³ (which is the limit value laid down in the final text) to be achieved by 2010 and 2015 respectively. However, the lower value of 20µg/m³ constitutes an indicative target for 2020, and the limit values are to be reviewed by the Commission in 2015²³.

The EP called for a definition of "natural sources" to ensure that the only emissions from natural sources which may be subtracted are those which substantially exceed the average background levels already allowed for in calculating limit values or target values. It recommended that the Commission publish guidelines for the consideration of evidence and the deduction of exceedances attributable to natural sources. This approach is reflected in the text adopted.

²² [European Parliament legislative resolution on the proposal for a directive of the European Parliament and of the Council on ambient air quality and cleaner air for Europe](#) (COM(2005)0447 – C6-0356/2005 – 2005/0183(COD))

²³ Commissioner McCreevy, Debates: CRE 10/12/2007

2.3.2 Integrated pollution prevention and control (IPPC)

Introduction to Commission proposal

The main aim of the Commission's proposal for a Directive on industrial emissions (COM(2007)844) put forward in December 2007 is to recast and consolidate into one single text seven separate directives on industrial emissions, the most important of which is the IPPC Directive (Directive 2008/1/EC, formerly 96/61/EC). This Directive sets out the main principles for the permitting and control of installations based on an integrated approach and the application of best available techniques (BAT). Specific provisions, including minimum emission limit values for certain industrial activities, are laid down in the sectoral directives: the large combustion plants Directive (2001/80/EC); waste incineration Directive (2000/76/EC); solvents emissions Directive (1999/13/EC); and three Directives on the titanium dioxide industry (Directives 78/176/EEC, 82/883/EEC and 92/112/EEC). Notwithstanding these minimum emission limit values, all industrial installations subject to these pieces of legislation must orientate their permitting regimes towards the implementation of BAT. Distortions of competition in the Community, caused by disparities in the transposition of the existing legislation, are to be remedied at the same time²⁴. The proposal encourages the combined permitting of installations subject to different pieces of EU legislation and simplifies reporting and monitoring requirements at Member State level.

Description of contents of Commission proposal

The proposal applies to activities currently falling within the scope of seven Directives on industrial emissions. The proposal slightly amends the scope of Annex I of the IPPC Directive to include some additional activities such as combustion installations between 20 and 50MW, the preservation of wood and wood products, and the production of wood panels.

Regarding the determination of permit conditions for activities listed in Annex I, the Commission's proposal foresees that the permit shall include emission limit values for polluting substances, appropriate requirements to protect the soil and groundwater as well as monitoring requirements. As in the IPPC Directive, the conditions of the permit should be set on the basis of BAT. In order to determine what are considered BAT and to limit imbalances in the Community in the level of emissions of industrial activities, the Commission currently adopts BAT reference documents (BREFs) following an exchange of information with stakeholders.

According to the Commission, as a result of the vague provisions on BAT in the current legislation, permits issued for implementing the IPPC Directive often included conditions that are not based on BAT. In order to address these shortcomings, the proposal requires that BREFs become the reference for setting permit conditions and that emission limit values do not exceed the emission levels associated with the BAT as described in the BREFs. The proposal also introduces a requirement for permit conditions to be reconsidered and, where necessary, updated after a new or updated BREF is adopted.

In order to take into account specific circumstances, the proposal enables competent authorities to grant derogations that allow emission limit values to exceed the emission levels associated with the BAT as described in the BREFs. However, such derogations should be based on well-defined criteria and should not exceed the emission limit values set out in Chapters III to VI of the proposed new Directive. Also, in order for operators to test emerging techniques which could ensure a higher level of environmental protection, the proposal introduces the possibility for the competent authority to grant temporary derogations from emission levels associated with the BAT as described in the BREFs.

²⁴ [European Parliament legislative resolution of 10 March 2009 on the proposal for a directive of the European Parliament and of the Council on industrial emissions \(integrated pollution prevention and control\) \(recast\) \(COM\(2007\)0844 – C6-0002/2008 – 2007/0286\(COD\)\)](#)

The proposal also contains more specific provisions to ensure the effective implementation and enforcement of the Directive. Thus a new provision requiring operators to report every twelve months on compliance with permit conditions to the competent authority and a requirement for Member States to provide for a system of environmental inspections is introduced. These new provisions are largely based on Recommendation 2001/331/EC providing for minimum criteria for environmental inspections in the Member States.

Comparison between EP position and Commission proposal

In March 2009 the EP adopted a legislative resolution amending the proposal at first reading²⁵. The amendments inserted new provisions for introducing EU-wide emission limits, greater flexibility in granting permits, excluding small plants, and better informing the public. At the beginning of June 2009, the proposal was awaiting first reading in the Council.

The EP suggested a different approach to determining limit values, considering that an undesirable political influence would be exerted on the existing multi-stakeholder process for the elaboration of BREFs (the so-called Seville Process). Hence, to retain this process in its current form, the fundamental change proposed by the EP is to provide for the creation of a comitology committee subject to parliamentary scrutiny which would have the task of laying down measures to limit emissions in the form of minimum requirements. The minimum requirements will form a European safety network whose rules may not be breached by any installation. At the level of the competent authorities on-the-spot measures to limit emissions are laid down for individual installations which are designed to result in emission levels which on average meet the requirements laid down in the BREFs, with some leeway so that proper account can be taken of local circumstances. On no account, however, may the ceilings imposed by the European safety network be exceeded²⁶.

In order to reduce widespread recourse to exemptions, the EP proposed that the Commission shall, within 12 months of the publication of a BREF, set emission limit values as well as monitoring and compliance requirements as minimum requirements. Such minimum requirements shall be directed to significant environmental impacts of the activities or installations concerned, and shall be based on BAT associated emission levels (BAT-AEL). The amendment passed by the EP stressed that those measures should be adopted in accordance with the regulatory procedure with scrutiny to ensure that Commission decisions take due account of the views of external experts and that economic implications of such decisions are made more transparent. In addition, the amended text stipulates that the competent authority shall set emission limit values and monitoring and compliance requirements to ensure that the BAT-AEL is not exceeded. Emission limit values may be supplemented by equivalent parameters or technical measures provided that an equivalent level of environmental protection can be achieved.

Another series of proposed amendments go beyond the Commission's proposal with regards to reducing red tape. These amendments relax rules concerning inspections of installations and of the requirement that operators submit reports on compliance with permit conditions. The EP considered that annual reporting would impose a bureaucratic burden on both operators and the authorities, and consequently proposed that the operator provide the competent authority with the relevant data on compliance with the permit conditions "at least every 24 months".

²⁵ [European Parliament legislative resolution of 10 March 2009 on the proposal for a directive of the European Parliament and of the Council on industrial emissions \(integrated pollution prevention and control\) \(recast\) \(COM\(2007\)0844 – C6-0002/2008 – 2007/0286\(COD\)\)](#)

²⁶ [EP Report on the proposal for a directive of the European Parliament and of the Council on industrial emissions \(integrated pollution prevention and control\) \(recast\) \(2007/0286\(COD\)\)](#)

These less stringent provisions were seen as benefitting the competent authorities as they would be able to use their resources where they are most needed.

Regarding inspections the EP proposed that inspections programmes shall include at least one random site visit every 18 months for each installation (rather than one site visit every 12 months for each installation). At the same time, the EP's amendment stipulated that the frequency shall be increased to at least every six months if an inspection has identified a case of non-compliance with the permit conditions. The EP's amendment also stressed that when carrying out such a non-routine inspection, the competent authorities may require operators to provide information in order to investigate the content of an accident, incident or occurrence of non-compliance, including health statistics.

2.3.3 Emissions from heavy duty vehicles (Euro VI)

Introduction to Commission proposal

The Commission's proposal for a Regulation on type approval of motor vehicles and engines with respect to emissions from heavy duty vehicles (COM(2007)851) put forward in December 2007 provides for the introduction of harmonised technical rules for heavy-duty vehicles to ensure the functioning of the internal market together with a high level of environmental protection regarding atmospheric emissions. Limits are established for damaging emissions of carbon monoxide (CO), nitrogen oxides (NOx) and particulates (PM). In comparison with Euro V, the permitted particle mass of particulate emissions from compression-ignition engine is to be reduced by 66% and NOx emissions by 80%. The Commission proposal also provides for measures relating to access to repair information. While this lower emission limit does not prescribe a particular technology, it will *de facto* require the introduction of diesel particulate filters (DPFs).

In parallel with the proposal for a Regulation which is currently under consideration (the "policy regulation"), a "technical regulation" is being drafted in line with the two-level approach to set out the technical specifications which comply with the underlying requirements. The Euro VI regulation is intended to replace the Euro IV emission limits which have applied since November 2006 and in 2013 to replace the Euro V emission limits which have been applied as of October 2008.

Description of contents of compromise text

Following negotiations, a compromise was reached and the text was approved at first reading by the Council in June 2009. The compromise text selects emission limits for particulates which can be met by open or closed filters. It applies to motor vehicles of categories M1, M2, N1 and N2 as defined in Annex II of Directive 2007/46/EC with a reference mass exceeding 2,610kg and to all motor vehicles of categories M3 and N3. Some additional cases are addressed by the Regulation at the request of manufacturers.

In comparison with the current emissions standard (Euro V), the text aims to achieve a 66% reduction for fine particulates of NOx and a reduction of more than 80% for nitrogen oxides. Manufacturers are required to ensure compliance with the emission standards. The introduction of a limit value for the quantity of PM emitted is an innovation compared to the existing standards. The text foresees the monitoring of emissions from heavy commercial vehicles in real driving conditions and the introduction of access to repair and maintenance information. The Commission is mandated to adopt implementing measures to implement the requirements and tests.

The text includes reductions in emissions from positive ignition engines and also introduces requirements for the type-approval of exhaust after-treatment components such as catalysts and DPFs. The text allows Member States to provide financial incentives which shall apply to all new vehicles put on the market of the Member State concerned.

To support the introduction of world-wide harmonised requirements the Regulation also introduces requirements relating to:

- The use of world-wide harmonised steady state (WHSC) and transient (WHTC) driving cycles for the evaluation of pollutant emissions (replacing the limit values relating to current cycles (ESC and ETC) no later than 1 April 2010);
- Emissions testing and measurement methodology; and
- World-Wide Harmonised on-board diagnostic (WWH-OBD) systems.

The Commission shall also specify a limit value for NO₂ in addition to that for total NO_x, without lowering the level of environmental protection within the Community. The limit for NO₂ shall be set at a level reflecting the performance of existing technologies.

Comparison between EP position and compromise text

The Commission proposal provided for the new limits to be introduced with effect from 2013. The EP²⁷ called for the work under the comitology procedure to be completed by 1 April 2009 (because it estimated that the state of technical progress permits an earlier date of introduction) and proposed that the new emission limits enter into force for new vehicle types 36 months later, i.e. on 1 April 2012, and for all vehicles on 1 April 2013. The amendment requesting that the standard for PM emissions should be laid down by 1 April 2009 in connection with the adoption of the implementing measures is not included in the final text. The overall introduction date has however been brought forward so that Euro VI will come into effect earlier with new limits due to take effect from 31 December 2012.

The Commission's proposal incorporated rules on access to repair information from Euro V and VI. The EP supported this and stressed that independent market operators must be afforded standardised access to repair and OBD information in the same way as authorised dealers and repairers. The compromise text foresees that manufacturers provide unrestricted and standardised access to OBD information, diagnostic and other equipment, tools including any relevant software and vehicle repair and maintenance information to independent operators.

The EP supported the option in the Commission's proposal for Member States to promote early introduction of clean vehicles by means of financial incentives. The compromise text stated that such incentives might be offered and shall apply to all new vehicles put on the market of the Member State concerned which comply with this Regulation and its implementing measures. However, they shall cease to apply on 31 December 2013 at the latest.

In order to ensure that vehicles abide by limits even outside the test cycle, the EP called for the use of portable emission measurement systems and the introduction of procedures to measure off-cycle emissions. The compromise text foresees that implementing measures will be adopted regarding tailpipe emissions, including test cycles, the use of portable emissions measurement systems for verifying the actual in-use emissions, verifying and limiting off-cycle emissions, establishment of limits for particle number while retaining the existing ambitious environmental requirements and emissions at idling speed.

²⁷ [European Parliament legislative resolution of 16 December 2008 on the proposal for a regulation of the European Parliament and of the Council on type-approval of motor vehicles and engines with respect to emissions from heavy duty vehicles \(Euro VI\) and on access to vehicle repair and maintenance information \(COM\(2007\)0851 – C6-0007/2008 – 2007/0295\(COD\)\)](#)

The EP called on the Commission to submit a proposal, if appropriate, on the regulation of CO₂ emissions from heavy-duty vehicles in light of the measurements obtained. The compromise text states that in order to promote the market for clean and energy efficient vehicles the Commission should study the feasibility and the development of a definition and a methodology of energy consumption and CO₂ emissions for whole vehicles and not only for engines.

In demarcating which decisions are to be taken under co-decision and under comitology, the EP sought to ensure that important decisions such as those on the introduction of limits for new substances would be subject to co-decision. The compromise text stipulates that, as proposed by the EP, proposals for amending the Regulation regarding emissions of additional pollutants shall be taken under the co-decision procedure.

Retrofitting of heavy-duty vehicles with diesel particle filters can result in higher emissions of NO₂. The EP called on the Commission to draft a proposal to regulate the retrofitting of vehicles already in operation. The compromise text states that the Commission should draft a legislative proposal to harmonise national legislation on retrofitting and ensure it incorporates environmental conditions.

The EP regretted that the Commission proposal did not set more ambitious limits for particle mass. The EP argued further reductions in the limits are needed in order to ensure the use of closed filters which filter out ultra-fine particles and that this is technically feasible. The EP therefore proposed going a step further and reducing the particle mass limit from the figure of 10mg/kWh in the Commission proposal to 5mg/kWh. This proposal was however not included in the final text and the figure for reduction of the particulate mass limit remains at 10mg/kWh.

2.3.4 Substances that deplete the ozone layer

Introduction to Commission proposal

The Commission's proposal (COM(2008)505) put forward in August 2008 aims to revise and recast Regulation (EC) No 2037/2000 on substances that deplete the ozone layer and subsequent amending acts. Regulation (EC) No 2037/2000 is the main EC instrument for implementing the Montreal Protocol on substances that deplete the ozone layer. The recast proposal largely maintains the scope of the existing Regulation; it follows the structure of the existing Regulation, but adds a new chapter on derogations from the bans on production, placing on the market and use, which were originally spread between various provisions on the phase-out schedules for controlled substances and products. These changes were intended to make the text more readable and thereby facilitate application of the legislation. The main objectives of the revision are (1) to simplify and recast Regulation (EC) No 2037/2000 whilst at the same time reducing any unnecessary administrative burden; (2) to ensure compliance with the Montreal Protocol as adjusted in 2007; and (3) to make sure that the future challenges are addressed in order to ensure the timely recovery of the ozone layer and avoid adverse impacts on human health and ecosystems.

Description of contents of compromise text

Following negotiations, a compromise agreement was reached and the Parliament adopted its position at first reading in March 2009. The compromise text stresses that many ozone depleting substances (ODS) are GHG not controlled under the Kyoto Protocol and the need to minimise and eliminate the production and use of ODS wherever technically feasible alternatives with low global warming potentials are available. Given the continuing innovation in the sectors covered by the Regulation, the compromise text requires that the Commission regularly review the Regulation and make appropriate proposals, in particular with respect to the remaining exemptions and derogations, to further strengthen the protection of the ozone layer while simultaneously reducing GHG emissions.

Regarding the placing on the market and use of controlled substances, the compromise text foresees that controlled substances shall not be placed on the market in non-refillable containers, except for laboratory and analytical uses. As of July 2010 containers of controlled substances produced or placed on the market as process agents shall be labelled with a clear indication that those substances may not be used as process agents. These labelling requirements will also apply to controlled substances produced or placed on the market for essential laboratory and analytical uses. Regarding the destruction and reclamation of controlled substances the text foresees that controlled substances and products and equipment containing or relying on controlled substances may be placed on the market for destruction within the Community. Controlled substances may also be placed on the market for reclamation within the Community.

Regarding controlled substances used as process agents, the compromise text stipulates a limit within the Community of 1,083 metric tonnes per year. The maximum amount of controlled substances that may be emitted from process agent uses within the Community shall not exceed 17 metric tonnes per year. Regarding methyl bromide the text foresees that, subject to some restrictions, it may be placed on the market and used for quarantine and for pre-shipment applications for treatment of goods for export until 18 March 2010. The text lists restrictions on the use of methyl bromide, in particular with regard to the quantity undertakings, placing on the market or use for their account.

The text provides that the Commission shall issue licences to producers and importers of the controlled substances, other than hydrochlorofluorocarbons (HCFCs), produced or imported for essential laboratory or analytical use. It sets clear indications regarding the quantity annually authorised under licences for individual producers and importers and leaves it to the Commission to determine a mechanism for the allocation of quotas to producers and importers.

The compromise text establishes that undertakings operating refrigeration, air conditioning or heat pump equipment, or fire protection systems which contain controlled substances shall ensure that the stationary equipment or systems are checked on a regular basis.

Undertakings are required to maintain records on the quantity and type of controlled substances added and recovered during servicing, maintenance and final disposal of the equipment or system; and to make these records available on request to the competent authority and to the Commission. In addition, producers shall communicate any purchases from and sales to other producers in the Community and any quantity recycled, reclaimed or destroyed and the technology used for destruction.

The text also sets a phase-out schedule for the production of HCFCs which requires producers to ensure that the quantity produced is progressively reduced compared to the calculated level of production in 1997 and sets the date for a complete phase-out of production by 31 December 2019.

Comparison between EP position and compromise text

The EP²⁸ emphasised that many ODS are GHG and stressed that it is desirable to minimise and eliminate the production and use of ODS wherever technically feasible alternatives are available. This language was included in the text adopted. Recognising that the ODS that are already produced are a great threat for the ozone layer, the EP proposed to emphasise the prohibition of the production and placing on the market of substances and of products and equipment containing substances that have been phased out. The subsequent amendment adopted calls it appropriate to progressively prohibit the use of those substances and of products and equipment containing such substances.

²⁸ [European Parliament legislative resolution of 25 March 2009 on the proposal for a regulation of the European Parliament and of the Council on substances that deplete the ozone layer \(recast\)](#) (COM(2008)0505 – C6-0297/2008 – 2008/0165(COD))

An EP amendment which would have introduced a total ban of the production and consumption of methyl bromide was not adopted in the compromise text (which is limited to stressing that the availability of alternatives to methyl bromide should be reflected in more substantial reductions in its production and consumption). The EP succeeded in ensuring a ban on its use for quarantine and pre-shipment applications by 18 March 2010 rather than by 2015.

At the demand of the EP, the compromise text provides some guidance regarding the destruction of substances and products containing such substances under this Regulation. The text stresses that destruction shall only be carried out through the use of approved technologies listed in Annex VII or, in the case of controlled substances not referred to in that Annex, by the most environmentally acceptable destruction technology not entailing excessive costs. This does not go as far as the EP's proposal however, which requested that the Commission establish an Annex with performance standards specifying the level of recovery of ODS in each category of product and equipment, and monitoring standards, reflecting best environmental practices.

The original proposal empowered the Commission to compile a list of products and equipment for which recovery, or destruction without prior recovery, of controlled substances shall be considered technically and economically feasible, and therefore mandatory. An EP amendment calling on the Commission to adopt an action plan providing incentives for withdrawing the substances in question and replacing them with safer alternatives is not included in the compromise text.

The EP proposed several amendments reflecting a will to speed up the reduction of production, circulation and use of ODS. Most of these amendments are not reflected in the compromise text. For example, the Commission proposal would have allowed low levels of production (under strict reporting and monitoring) of HCFCs in Europe for laboratory and analytical uses until 3 December 2019. The EP proposed to decrease the calculated level of production but this amendment was not adopted. Another example is the EP's amendment that would have put an end to the production of HCFCs after 31 December 2014 instead of 31 December 2019 as provided for in the compromise text.

With regard to emission control, the EP proposed an amendment which was meant to ensure that banked compounds are re-captured. The final text does not reflect these provisions.

2.4 Harmful Substances

2.4.1 Regulation, Evaluation, Authorisation and Restriction of Chemicals (REACH)

Introduction to Commission proposal

Following the publication of a White Paper on the strategy for a future chemicals policy (COM(2001)88) in February 2001, extensive consultations, studies, lobbying and inter-service negotiations, the Commission formally proposed the REACH Regulation in October 2003 (COM(2003)644). This proposal was substantially modified from an earlier draft, resulting in a reduced burden on industry but also a lower level of environmental protection.

The disappointing progress in evaluating existing chemicals under Regulation 793/93/EC was one of the main reasons for REACH, which introduces a single system for all chemicals and abolishes the distinction between “new” (introduced to the market after 1981) and “existing” chemicals (listed in the European Inventory of Existing Commercial Chemical Substances (EINECS) before 1981). In contrast to earlier EU chemicals legislation, REACH incorporates into its scope existing chemicals about which sufficient information is often lacking for effective assessment and control. It transfers the burden of proof of risk assessment of substances from public authorities to industry and places much more responsibility on manufacturers, importers and downstream users to provide useful information on chemicals placed on the market. REACH also calls for the substitution of the most dangerous chemicals when suitable alternatives have been identified.

Description of contents of adopted text

Following intense negotiations, a compromise agreement on the proposed Regulation was reached at second reading and the final text was adopted in December 2006.

The Regulation (EC) No 1907/2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), consists of four main stages - registration, evaluation, authorisation and restriction - which are outlined below.

- **Registration and evaluation:** All chemicals produced in or imported into the EU in quantities over one tonne per year need to be registered. The aim of the registration provisions is to assess the risks related to these substances and to develop appropriate risk management measures. These provisions vary depending on the amounts imported and produced. The REACH Regulation established the European Chemicals Agency (ECHA) which is responsible for the evaluation of registration dossiers. Based on these, ECHA will identify what substances shall be evaluated. The first list of substances for evaluation is due to be published by December 2011 and the actual evaluation process is due to start in 2012.
- **Authorisations:** Unlike the registration and evaluation procedures, authorisations and restrictions are not dependent on amounts imported and produced. The aim of the authorisation procedure is to identify substances of very high concern, which are defined by REACH as either persistent, bioaccumulative and toxic (PBT), very persistent and very bioaccumulative (vPvB), carcinogenic, mutagenic or toxic for reproduction (CMRs) or substances of equivalent concern. Through a complicated process, involving candidate lists, priority lists and ultimately a comitology procedure, substances are added to the so-called Annex XIV list. Once a substance is included on this list, those using or making available such a substance will need to apply for an authorisation for each use of the substance. The applicants are required to analyse the availability of alternatives and consider their risks, and the technical and economic feasibility of substitution. For some of the substances of very high concern an authorisation can be granted if the risk to human health or the environment is considered to be adequately controlled or if it can be shown that socio-economic benefits outweigh the risk to human health or the environment and that there are no suitable alternatives. In making the ultimate authorisation decision, the Commission has to take into consideration a number of elements, including the opinions of the Committee for Risk Assessment and the Committee for Socio-Economic Analysis of ECHA and the positions of the Member States. Authorisations are time-limited, subject to review and subject to conditions, including monitoring.
- **Restrictions:** The restrictions procedure is a safety net to catch any substances that are found to cause “unacceptable risks” to human health and the environment. It replaces the existing scheme of prohibitions and restrictions of hazardous chemicals under Directive 76/769/EEC and its multiple amendments.

The *acquis* of this earlier legislation has been incorporated into REACH. Additional candidate substances for restriction are to be nominated to ECHA by Member States who then have 12 months to submit a dossier substantiating the restriction proposal. Until data from registration dossiers become available, it is likely that only substances that were already subject to risk assessment under pre-REACH procedures will be nominated for restrictions. It is therefore unlikely that a large number of substances will be initially proposed for restrictions.

Comparison between EP position and adopted text

The EP played a key role in the development of the REACH Regulation.

In November 2005, prior to the plenary vote at first reading, a compromise text on the substance registration procedure was agreed between political groups in the EP. The deal delayed the deadline for the registration of the most dangerous chemicals from three to six years. Firms would also be able to use a higher degree of generic exposure categories for risk assessments and some of the more expensive tests would not be required.

The EP's first reading position on REACH (18/11/2005)²⁹ made amendments on registration, authorisation, substances in articles, SMEs and the ECHA. MEPs supported the so called "Sacconi-Nassauer" compromise on the registration procedure, introducing a targeted approach on data requirements for existing substances produced at lower tonnages (1-10 tonnes) and the "One Substance, One Registration" (OSOR) approach to minimise costs, with an opt-out under specific conditions. On the authorisation chapter, the EP endorsed a stronger approach whereby all substances of very high concern could be authorised only when suitable alternatives or technologies do not exist. The EP also strengthened the role of ECHA in evaluating dossiers and substances, while at the same time maximising the use of Member States' expertise on substance evaluation

In its Common Position, the Council adopted an approach very similar to the EP's on registration and evaluation, while significant differences remained between the EP and Council positions on the authorisation chapter. The Council decided that authorisations could be granted under the "adequate control" route even if safer alternatives exist. However, the Council did move closer to the view of the EP by refraining from providing that authorisations for the use of PBT or vPvB substances may be granted on grounds of "adequate control".

In September 2006 the Environment Committee in its second reading voted for a "greener" REACH. On the most controversial issue of authorisation the Committee stuck to the EP's first reading position by requiring a mandatory substitution of substances of very high concern whenever alternatives exist. Before the vote in Plenary, trilogue talks took place between the EP, Council and Commission to avoid a conciliation procedure. A political agreement was eventually reached and the compromise text adopted in December 2006³⁰.

²⁹ [European Parliament legislative resolution on the proposal for a regulation of the European Parliament and of the Council on the Registration, Evaluation, Authorisation and Restriction of Chemicals \(REACH\), establishing a European Chemicals Agency and amending Directive 1999/45/EC and Regulation \(EC\) No .../... \[on Persistent Organic Pollutants\]](#) (COM(2003)0644 - C5-0530/2003 - 2003/0256(COD))

³⁰ [European Parliament legislative resolution on the Council common position for adopting a regulation of the European Parliament and of the Council concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals \(REACH\), establishing a European Chemicals Agency, amending Directive 1999/45/EC of the European Parliament and of the Council and repealing Council Regulation \(EEC\) No 793/93 and Commission Regulation \(EC\) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC](#) (7524/8/2006 – C6-0267/2006 – 2003/0256(COD))

The compromise reached on the controversial issue of “authorisation/substitution” includes the obligation to always present a substitution plan if suitable safer alternatives exist (although a substitution plan will not be necessary in this case for granting the authorisation). The length of the review period - to which all authorisations will be subject - will be determined on the basis of the substitution plan.

The main challenge was to agree on the substitution principle and to what extent substances of very high concern ought to be substituted whenever safer alternatives exist. The EP was of the opinion that these substances should not be allowed to stay on the market in such cases. In the end the Parliament had to move from a requirement of mandatory substitution to mandatory substitution plans. It remains to be seen whether such plans will be effective to achieve gradual substitution of the substances concerned. If not, REACH may well fail to achieve one of its key objectives.

First stage of REACH implementation: pre-registration

Phase-in substances, which are those listed in the EINECS inventory or those that have been manufactured in the Community, but not placed on the Community market, in the last 15 years, or the “no longer polymers” of Directive 67/548/EEC, were required to be pre-registered between 1 June and 1 December 2008. The resulting list published by ECHA contains around 143,000 substances, pre-registered by 65,000 companies.

Pre-registration allowed industry to benefit from extended registration deadlines for phase-in substances, giving it time to adapt gradually to the new requirements. The main communication mechanism for phase-in substances is the Substance Information Exchange Forum (SIEF). All potential registrants, downstream users and third parties who have submitted information to ECHA in accordance with the provisions on pre-registration of phase-in substances or whose information is held by ECHA in accordance with the provisions on substances regarded as being registered are required to participate in such SIEF. The aim of SIEF is to facilitate the exchange of information between potential registrants and to agree on classification and labelling when differences emerge. Accordingly, the SIEF participants are required to share existing vertebrate animal test data as well as to agree on the generation of new test data. Each SIEF is to be operational until 2018.

2.4.2 Classification, labelling and packaging of substances and mixtures

Introduction to Commission proposal

The Commission's proposed Regulation on classification, labelling and packaging of substances and mixtures (COM(2007)355) put forward in June 2007 aims to align the EU system of classification, labelling and packaging of substances and mixtures to the United Nations Globally Harmonised System (UN GHS). The Regulation requires companies to appropriately classify, label and package their hazardous chemicals before placing them on the market. It aims to protect workers, consumers and the environment by means of labelling which reflects possible hazardous effects of dangerous substances. By using internationally agreed classification criteria and labelling elements, this new system is expected to facilitate trade and contribute towards global efforts to protect humans and the environment from the hazardous effects of chemicals.

Description of contents of adopted text

The proposed Regulation was agreed at first reading and the final text adopted in December 2008.

Regulation (EC) No 1272/2008 on classification, labelling and packaging of substances and mixtures aims to ensure a high level of protection of human health and the environment as well as the free movement of substances, mixtures and certain articles.

The main elements of the Regulation are outlined below:

- The terminology, evaluation principles and criteria of the UN GHS are applied in the Regulation;
- The scope is as close as possible to that of the existing EU system as set out in Directives 67/548/EEC and 1999/45/EC;
- It ensures consistency with existing legislation on the transport of dangerous goods;
- It includes the current Annex I of Directive 67/548/EEC listing the harmonized classification and labelling of substances;
- It includes provisions on the classification and labelling inventory from the REACH Regulation (EC) No 1907/2006;
- It defines a transitional period during which companies must come into line with the new regulation; and
- It maintains the concept of “dangerous” to avoid changing the scope of REACH and other Community legislation.

Comparison between EP position and adopted text³¹

The amendments to the Commission’s proposal agreed between the EP and Council during negotiations aimed to *inter alia* improve communication on safer consumer use of chemicals and within supply chains, limit confidentiality claims, and promote stronger international rules on the labelling of PBTs.

The EP was concerned about the use of human data obtained from other sources (Article 7) as this would mean that certain necessary tests would no longer be allowed. The agreed compromise allows the use of human data obtained from other sources, such as clinical studies, for the purpose of classification.

The EP’s Environment Committee had voted in favour of an amendment which would have limited the exclusion from the scope of the Regulation of substances and mixtures for scientific research to those which are placed on the market at an annual volume below one tonne per supplier. However, the Regulation as agreed applies to substances and mixtures for scientific research and development without any quantitative limit.

2.4.3 Sustainable use of pesticides

Introduction to Commission proposal

The proposed Directive to establish a framework for Community action to achieve a sustainable use of pesticides (COM(2006)373) put forward in July 2006 is a legislative initiative following the elaboration of the TS on the sustainable use of pesticides. The proposed Directive would complement existing legislation regulating the placing on the market of pesticides for agricultural use (plant protection products), which is currently regulated by Directive 91/414/EEC and that of pesticides for non-agricultural use (biocidal products), which is currently regulated by Directive 98/8/EC. In a separate legislative proposal, the Commission, following a review of the implementation of Directive 91/414/EEC, has proposed to replace that instrument with a new Regulation on the placing on the market of plant protection products (see section 2.4.4). In June 2009, the Commission also presented a similar proposal for a Regulation to replace Directive 98/8/EC (COM(2009)267). The proposed framework Directive on sustainable use of pesticides would not overlap with existing legislation governing placing on the market as it focuses on the conditions of use of those products rather than pre-marketing authorisation.

³¹ [European Parliament legislative resolution of 3 September 2008 on the proposal for a regulation of the European Parliament and of the Council on classification, labelling and packaging of substances and mixtures, and amending Directive 67/548/EEC and Regulation \(EC\) No 1907/2006 \(COM\(2007\)0355 – C6-0197/2007 – 2007/0121\(COD\)\)](#).

Description of contents of adopted text

Following negotiations between the Council and EP, a compromise package was adopted by the EP at second reading in January 2009.

The new Directive establishes a framework for Community action to achieve a sustainable use of pesticides. Though this term, as used in the TS and defined in article 3(10) of the adopted text, includes both plant protection products and biocidal products, the scope of application of the framework Directive, according to its article 2(1), is actually limited to plant protection products.

The compromise package introduces the obligation for Member States to establish National Action Plans (NAPs) setting quantitative targets, measures and timetables to reduce risks and impacts of pesticide use on human health and the environment and to encourage the development and introduction of Integrated Pest Management (IPM) and alternative approaches to reduce dependency on the use of pesticides. These quantitative targets are to be defined by each Member State individually and may cover different areas of concern such as workers' protection, protection of the environment and residues, as well as use of specific techniques or use of pesticides in specific crops. The NAPs shall also include indicators to monitor the use of plant protection products containing active substances of particular concern, as defined in the Directive. On the basis of such indicators, timetables and targets for the reduction of use shall be established and Member States shall use all necessary means designed to achieve these targets.

In addition to the NAPs, the new Directive also sets binding minimum requirements for measures to train distributors and professional users of pesticides to ensure that they are fully aware of the risks involved, and to inform the general public through retailers and other appropriate channels; measures to ensure appropriate handling and storage of pesticides and their packaging and remnants; regular inspection of pesticide application equipment; prohibition of aerial spraying subject to limited derogations; and specific measures to protect the aquatic environment from pollution by pesticides and to establish areas of significantly reduced or zero pesticide use in line with area protection measures taken under other Community legislation (such as the WFD, the birds Directive, and the habitats Directive) and areas used by the general public. Community-wide standards on IPM would be developed to promote its implementation, while progress in pesticide risk reduction would be monitored through the establishment of harmonised indicators.

Comparison between EP position and adopted text

The requirements for NAPs are not as far reaching as the EP had proposed at first reading³². Under the EP amendments, Member States would have had to establish quantitative use reduction or risk reduction targets of a minimum 50% reduction by 2013 compared to 2005 for active substances of very high concern, and similar targets for pesticide formulations classified as toxic or very toxic (though in this case the reduction target would have been measured relative to sold volumes).

The EP was successful in pressing for a provision requiring Member States to put in place systems for gathering information on pesticide acute poisoning incidents, as well as chronic poisoning, among groups that may be exposed regularly to pesticides.

³² [European Parliament legislative resolution of 23 October 2007 on the proposal for a directive of the European Parliament and of the Council establishing a framework for Community action to achieve a sustainable use of pesticides](#) (COM(2006)0373 – C6-0246/2006 – 2006/0132(COD))

With respect to buffer zones and measures for the protection of the aquatic environment, the EP had proposed that substances classified as very toxic to aquatic organisms shall not be authorised for aerial spraying. However, the final text does not contain such a prohibition. It merely provides that Member States shall ensure that “appropriate measures” are taken to protect the aquatic environment and drinking water supplies from the impact of pesticides, “giving preference” to pesticides that are not classified as dangerous for the aquatic environment. The measures taken shall include the establishment of appropriately-sized buffer zones for the protection of non-target aquatic organisms and safeguard zones for surface and groundwater used for the abstraction of drinking water, where pesticides shall not be used or stored.

A clause on fiscal measures proposed by the EP at first reading authorising Member States to provide subsidies or take fiscal measures, including the introduction of a pesticides levy on all products except non-chemical products or plant protection products with a low or reduced level of risk, to encourage the use of less harmful plant protection products, was not included in the final text.

2.4.4 Placing plant protection products on the market

Introduction to Commission proposal

The proposal for a Regulation to replace Directive 91/414/EEC (COM(2006)388) was presented in July 2006 following extensive consultations with Member States and stakeholders as well as a comprehensive impact assessment. The proposed Regulation, which establishes harmonised requirements for the placing of plant protection products (pesticides for agricultural use) on the internal market building on the experience acquired under the 1991 Directive was part of a legislative package which included the Commission's proposal for a Directive on the sustainable use of pesticides (see section 2.4.3).

The proposed Regulation will lay down new harmonised rules for plant protection products, aimed at reinforcing the protection of public health and the environment, supporting sustainable development in agriculture, reducing the need for animal testing, and improving the competitiveness of the European agrochemical industry. The proposed Regulation also contributes to the better regulation agenda by replacing Directive 91/414/EEC with uniform rules directly applicable in all Member States and repealing Directive 79/117/EEC prohibiting the placing on the market and use of plant protection products containing certain active substances.

Description of contents of adopted text

Direct negotiations between the EP and the Council resulted in a compromise agreement adopted by the EP at second reading in January 2009³³.

The compromise text of the Regulation provides for the establishment at EU level of a positive list of active substances, safeners, synergists and a negative list of co-formulants. The duration of the EU-level approval procedure for active substances is shortened, with strict deadlines imposed on all participants in the regulatory process (Member States, the European Food Safety Authority and the Commission). The safety of active substances will be evaluated on the basis of strict criteria relating to human health and effects on the environment. Authorisations of active substances will no longer have to be renewed every 10 years, as required under Directive 91/414/EEC. However, authorisations can still be reviewed at any time if new concerns arise about safety.

³³ [European Parliament legislative resolution of 13 January 2009 on the Council common position for adopting a regulation of the European Parliament and of the Council on the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC \(11119/8/2008 – C6-0326/2008 – 2006/0136\(COD\)\)](#)

The EU will be divided into three zones with similar climatic and ecological features, and plant protection products authorised by any one Member State will automatically be cleared for use in the other Member States in that particular zone, whereas under the provisions of Directive 91/414/EEC, products had to be authorised in every individual Member State. National authorities will however still have the right to impose specific national risk mitigation measures if they deem it necessary.

The new Regulation also simplifies data protection rules, to allow more transparency and competition and ensure a level playing field for small- and medium-sized producers. It lays down provisions on the packaging, labelling and advertising of plant protection products and obligations for farmers and other professional users to keep records and for Member States to carry out controls.

Comparison between EP position and adopted text

The EP was successful in further strengthening the criteria for approval of active substances. Active substances on the EU list must not have an inherent capacity to cause endocrine disrupting, neurotoxic or immunotoxic effects. Substances classified as mutagenic (category 1 or 2), carcinogenic (category 1 or category 2 without a threshold) or toxic for reproduction should in principle not be authorised. While the Council had introduced provisions allowing derogations from the approval criteria for exceptional cases for active substances which are essential for the protection of a particular crop, the adopted compromise text limits the scope of this derogation clause compared to the Council common position. Special provisions were also introduced for the protection of honeybees. Substances shall be approved only if their use will result in a negligible exposure of honeybees, or there are no unacceptable acute or chronic effects on colony survival and development.

References to the precautionary principle were strengthened in the final text as demanded by the EP. Member States shall not be prevented from applying the precautionary principle where there is scientific uncertainty as to the risks with regard to human or animal health or the environment posed by the plant protection products to be authorised in their territory. Member States may also prohibit or restrict the advertising of plant protection products in certain media subject to Community law.

Restrictions on animal testing were reinforced, as the application dossier must include a justification of the steps taken to avoid animal testing and duplicative testing on vertebrate animals. Testing on vertebrate animals may be undertaken only where no other methods are available. Repetition of tests and studies involving vertebrates shall be avoided.

While the EP had initially opposed the new zoning system proposed by the Commission in its first reading position³⁴, it eventually accepted the three zone division in the compromise text. As a result, Member States will not have full discretion to confirm, reject or restrict the authorisation granted by another Member State in order to maintain a higher level of protection in line with their national policies. However, the EP succeeded in inserting a clause that allows a Member State to refuse authorisation of a product in its territory if, due to its specific environmental or agricultural circumstances, it has substantiated reasons to consider that the product in question poses an unacceptable risk to human or animal health or the environment which cannot be controlled by the establishment of national risk mitigation measures.

³⁴ [European Parliament legislative resolution of 23 October 2007 on the proposal for a regulation of the European Parliament and of the Council concerning the placing of plant protection products on the market \(COM\(2006\)0388 – C6-0245/2006 – 2006/0136\(COD\)\)](#)

Finally, the EP increased its scrutiny over the adoption by the Commission of implementing measures under comitology procedures. The regulatory procedure with scrutiny will apply to a wider range of measures than provided for in the Council's common position.

2.4.5 Export and import of dangerous chemicals

Introduction to Commission Proposal

Regulation 304/2003/EC of 28 January 2003 concerning the export and import of dangerous chemicals was annulled by the European Court of Justice (ECJ) on 10 January 2006 in an action brought by the Commission against the EP and Council (Case C-178/03).³⁵ Following this judgment, the Commission tabled a proposal for a Regulation concerning the export and import of dangerous chemicals (COM(2006)745) in November 2006. The Commission proposal was not only designed to implement the ECJ judgment, but also to make a number of technical amendments to the 2003 Regulation that it considered necessary based on the operation of the previous legislation from 2003 to 2005.

Description of contents of adopted text

The proposed Regulation was approved at first reading and the final text adopted in June 2008.

In a number of respects, Regulation (EC) No 689/2008 concerning the export and import of dangerous chemicals makes the Community's export regime for dangerous chemicals more stringent than the requirements of the Rotterdam Convention on the prior informed consent (PIC) procedure for certain hazardous chemicals and pesticides in international trade.

The scope of the Regulation is broader than that of the Convention, applying not only to banned and severely restricted chemicals and severely hazardous pesticide formulations, but also to certain other preparations and "articles", i.e. finished consumer products containing particular hazardous substances in a concentration that could trigger labelling obligations under Community legislation on classification and labelling of dangerous preparations (Directive 1999/45/EC). As regards banned and severely restricted chemicals, the Regulation distinguishes two different categories: chemicals subject to the PIC procedure (listed in Annex III to the Rotterdam Convention) and certain hazardous chemicals that are banned or severely restricted within the Community or a Member State.

The Regulation provides for three different procedures that exporters and national authorities must apply, depending on the status of the respective chemical. The full PIC procedure has to be applied for hazardous chemicals which are subject to that procedure under the terms of the Rotterdam Convention. These chemicals are listed in Part 3 of Annex I to the Regulation. An export notification procedure shall be applied mostly for chemicals that are banned or severely restricted in the EU but do not qualify for notification to the Convention for inclusion in its PIC list. These chemicals are listed in Part 1 of Annex I to the Regulation. Finally, there is a requirement for explicit consent of the importing country prior to any export which applies to hazardous chemicals that have been determined by the Community to qualify for PIC notification and are not yet subject to the Convention (these chemicals are listed in Part 2 of Annex I).

³⁵ The Commission initiated these proceedings because it considered that the EP and Council had unlawfully changed the legal basis of the legislative act originally proposed by the Commission. This legal action was part of a long-standing Commission policy to seek to assert exclusive Community competence over the subject matter of export and import of dangerous chemicals, which it regards as primarily a trade policy matter. When the Council adopted Regulation 304/2003/EC, it unanimously decided to replace the legal basis proposed by the Commission, Article 133 EC (common commercial policy), by Article 175(1) EC (environmental policy). The ECJ eventually held that both Articles 133 and 175(1) were appropriate legal bases and that the Regulation should have been based on both Treaty provisions. However, the ECJ also ruled that the effects of the Regulation were to be maintained until the adoption, within a reasonable period, of a new Regulation founded on appropriate legal bases.

The Regulation makes compliance with PIC decisions of importing countries mandatory for exporters in the Community's customs territory. This obligation applies to the chemicals listed in Annex III of the Rotterdam Convention (Part 3 of Annex I to the Regulation) for which information on importing countries' decisions has been circulated by the Convention Secretariat. But here too the obligations imposed by EC law go beyond the strict requirements of the Convention. The Regulation in principle does not allow exports of chemicals which are either listed as PIC chemicals under the Convention (Part 3 of Annex I), or have been determined by the Community to qualify for PIC notification (Part 2 of Annex I), without the explicit consent of the authorities of the importing country, whether or not a Party to the Convention, whereas the Convention itself only regulates exports to Parties. However, "in consultation with the Commission and on a case-by-case basis" the designated national authority of the exporting Member State may decide to allow an export to proceed to countries which have failed to provide a response to a request for explicit consent within 60 days, if there is evidence from official sources that the chemical has been licensed, registered or authorised in the destination country.

The Regulation also lays down rules concerning the labelling of chemicals intended for export which are more specific than those of the Convention. Whereas the latter only requires exported chemicals to be labelled in a way that is "adequate" to provide the necessary health, safety and environmental information to users, taking into account relevant international standards, the Regulation stipulates that the EC's internal classification, labelling and packaging standards shall apply to all chemicals intended for export, without prejudice to any specific requirements of the importing country. Consistent with the Convention's provisions, there is also an obligation for exporters to provide safety data sheets to importers.

Article 14(2) of the Regulation bans altogether the export from the Community, to any country, of a limited number of chemicals and articles "the use of which is prohibited in the Community for the protection of human health or the environment". The products to which the ban applies are listed in Annex V of the Regulation and are those targeted for a global phase-out in the 2001 Stockholm Convention on POPs, as well as cosmetic soaps containing mercury.

The provisions concerning the import of chemicals in the European Community and the action to be taken by EU institutions on export notifications received from third countries will not be discussed, as they are primarily relevant for the EU's internal chemical safety policy and were not the subject of significant political debate.

Comparison between EP position and adopted text

The EP was successful in pressing for the following main amendments to the Commission's proposal³⁶:

- "Articles" containing substances listed in parts 2 and 3 of Annex I require an export notification, just as substances and preparations;
- Each export notification shall be registered and assigned an export reference identification number in a database at the Commission;
- In order to ensure that notifications are not unduly delayed, a deadline for the provision of information to complete the requirements of Annex II was included in the Regulation and identified exporters or importers shall, upon request by the Commission, provide all relevant information available to them within that time period;

³⁶ [European Parliament legislative resolution of 15 January 2008 on the proposal for a regulation of the European Parliament and of the Council concerning the export and import of dangerous chemicals](#) (COM(2006)0745 – C6-0439/2006 – 2006/0246(COD))

- Substances not yet included in the Convention's PIC procedure, but that are restricted or even banned in the EU, will be treated in a more flexible way than substances included in the Convention's PIC list. Experience under the annulled Regulation has shown that the request for explicit consent for these substances very often remains unanswered. As this is very time consuming for the designated national authorities and seriously hampers the exporters' competitiveness, a derogation clause was added which provides that the designated national authority of the Member State of the exporter may, in consultation with the Commission and on a case by case basis, decide that the export of these substances (listed in Parts 2 or 3 of Annex I) may proceed subject to certain conditions. However, when deciding on the export of chemicals listed in Part 3 of Annex I, such a decision shall consider the possible impact on human health and the environment of the use of the chemical in the importing Party or other importing country;
- The validity of each explicit consent obtained or waiver granted shall be subject to periodic review by the Commission in consultation with the Member States concerned;
- Information on handling the packaging after the chemicals have been removed is added to the list of matters not regarded as confidential; and
- Certain implementing measures must be adopted in accordance with the regulatory procedure with scrutiny.

2.4.6 Mercury

Introduction to Commission proposal

The Commission's proposal for a Regulation banning exports of metallic mercury and certain mercury compounds and the safe storage of metallic mercury (COM(2006)636) put forward in October 2006 aimed to achieve three objectives in line with the EU's common strategy on mercury, as set out in (COM(2005)20). This strategy seeks to control the use of mercury subject to strict regulatory conditions, to reduce mercury emissions, to cut supply and demand and to provide protection against human exposure to mercury. Global demand for mercury is declining. In the EU only the chlor-alkali industry remains a significant user of mercury. Yet, it is progressively phasing out the use of mercury-containing cells. It is estimated that between now and 2020 some 12,000 tonnes of mercury will become available due to this phase-out, hence the need to introduce provisions which regulate and control the expected surplus of unused mercury. Accordingly, the Commission's proposal aims to ban the export of mercury from the Community, to prevent the re-entry of mercury onto the market and to guarantee its safe storage.

Description of contents of adopted text

The final text adopted in October 2008 reflects a second reading agreement between the EP and the Council.

Regulation 1102/2008/EC on the banning of exports of metallic mercury and certain mercury compounds and mixtures and the safe storage of metallic mercury prohibits the export of metallic mercury, cinnabar ore, mercury chloride, mercury oxide and mixtures of metallic mercury with other substances, including alloys of mercury, with a mercury concentration of at least 95% weight by weight from the Community from 15 March 2011. The mixing of metallic mercury with other substances for the sole purpose of export shall be prohibited from the same date. However, the prohibition shall not apply to exports of mercury compounds for research and development, medical or analysis purposes.

From 15 March 2011, metallic mercury that is no longer used in the chlor-alkali industry, metallic mercury gained from the cleaning of natural gas, metallic mercury gained from non-ferrous mining and smelting operations, and metallic mercury extracted from cinnabar ore in the Community, shall be considered as waste and disposed of in accordance with relevant EU waste legislation.

Additional measures are to be considered by the Commission following an exchange of information between the Member States and the relevant stakeholders. The Commission shall report to the EP and the Council as soon as possible, and no later than 15 March 2013, and if appropriate submit a proposal for a revision of the Regulation based on the outcome of the information exchange.

Comparison between EP position and adopted text

The main amendments to the Commission's proposal following the compromise agreement between Parliament and Council are as follows³⁷:

- The scope of the export ban is expanded and this will take effect three months earlier than proposed by Council;
- The EP's first reading amendments banning mercury imports into the EU were not included in the compromise text. However the Commission is to organise an exchange of information between Member States and relevant stakeholders by 1 January 2010 to examine the need for, *inter alia*, extending the export ban to other mercury compounds, mixtures with a lower mercury content and products containing mercury, in particular thermometers, barometers and sphygmomanometers; and an import ban on metallic mercury, mercury compounds and products containing mercury;
- The information to be provided to the Commission by companies concerned in the chlor-alkali industry and in the industry sectors that gain mercury from the cleaning of natural gas or as a by-product from non-ferrous mining and smelting operations was further specified. Such information shall be provided on an annual basis and made publicly available by the Commission in accordance with the relevant provisions of the Aarhus Regulation (1367/2006/EC);
- The Commission shall submit a report on safe disposal options to the EP and Council by 1 January 2010. A proposal for a revision of the Regulation must be presented as soon as possible and not later than 15 March 2013;
- Amendments concerning applicable infringement penalties were accepted; and
- Member States may maintain any national measures restricting the export of mercury and mercury compounds which were adopted in line with Community legislation before the adoption of the Regulation until 15 March 2011.

In its first reading opinion³⁸, the EP had proposed amendments requiring Member States to draw up a register of buyers, sellers and traders of mercury, cinnabar ore and mercury compounds, and collect relevant information, in order to establish a tracking system aimed at ensuring transparency of the trade, and allow easy assessment of any developments that run contrary to the intention and effectiveness of the ban. The EP had also proposed to establish a special fund for mercury storage. These provisions were not accepted because the Council considered them to be disproportionate and likely to increase bureaucracy unnecessarily.

³⁷ [European Parliament legislative resolution of 21 May 2008 on the Council common position for adopting a regulation of the European Parliament and of the Council on the banning of exports and the safe storage of metallic mercury](#) (11488/1/2007 – C6-0034/2008 – 2006/0206(COD))

³⁸ [European Parliament legislative resolution of 20 June 2007 on the proposal for a regulation of the European Parliament and of the Council on the banning of exports and the safe storage of metallic mercury](#) (COM(2006)0636 – C6-0363/2006 – 2006/0206(COD)).

2.5 Biodiversity, Nature Conservation and Soil

2.5.1 Placing timber and timber products on the market

Introduction to Commission Proposal

Illegal logging takes place when timber is harvested, processed or traded in violation of national laws applicable in the country of harvest. Illegal logging is a major contributor to global deforestation which causes approximately 20% of global GHG emissions and is a major cause of global biodiversity loss. The 2003 Commission Communication on an EU Action Plan for Forest Law Enforcement, Governance and Trade (FLEGT) (COM(2003)251) set out a package of measures including, *inter alia*, support for timber-producing countries, efforts to develop multilateral collaboration to combat the trade in illegally harvested timber, private sector initiatives, and measures to avoid investment in activities which encourage illegal logging and conflict timber. This was followed in 2005 with the adoption of Regulation (EC) No 2173/2005 on the establishment of a FLEGT licensing scheme for imports of timber into the European Community.

In October 2008, the Commission put forward a proposal for a Regulation laying down the obligations of operators who place timber and timber products on the market (COM(2008)644) which aims to strengthen the EU's existing policy framework and to minimise the risk of illegally logged timber and timber products entering the Community market.

Description of contents of Commission proposal

The Commission's proposal determines the obligations of those operators who place timber and timber products on the Community market regardless of their origin. The proposed Regulation would require operators within the EU market to apply a system of "due diligence" to ensure that timber and timber products are tracked and "reasonable assurance" can be provided as regards their legality. The Regulation would not explicitly outlaw the possession, trading or placing on the market of illegal timber as operators can only be held to account if it could be proven that due diligence had not taken place.

The due diligence system includes measures and procedures which will enable operators to track the timber and timber products, to have access to information concerning compliance with the applicable legislation and to manage the risk of placing illegally harvested timber and timber products on the Community market. Legality is defined on the basis of the legislation of the country of harvest which is applicable to forest management, timber harvesting and the timber trade. The proposal focuses 'only on the question of legality' and thus does not directly address the issue of sustainability.

The proposed measures also aim to provide consumers with the certainty that by buying timber and timber products they are not contributing to the problem of illegal logging and its associated trade. Under the proposal, timber and timber products covered by a FLEGT license or a CITES permit are considered to have been legally harvested.

Comparison between EP position and Commission proposal

The EP adopted its position at first reading on 22 April 2009³⁹. The main amendments proposed to the Commission's position are as follows:

- The inclusion of an explicit statement requiring operators to only make available legally harvested timber and timber products on the market;
- Clarification of what is meant by "due diligence" and what would be expected in terms of the traceability of timber products, the monitoring systems that should be in place to ensure operators are complying with the due diligence regulations, and what should comprise the risk management procedure;
- A requirement for operators that make timber and timber products available on the market to be able to, throughout the supply chain: (i) identify the operator who has supplied the timber and timber products, and the operator to whom the timber and timber products have been supplied; (ii) provide on request information on the name of the species, the country or countries of harvest and where feasible the concession of origin; (iii) check, where necessary, that the operator who has placed the timber and timber products on the market has fulfilled his obligations under this Regulation;
- A requirement for Member States to ensure that all timber and timber products placed on the market are labelled as appropriate with the aforementioned information two years after the entry into force of the Regulation;
- A special mechanism to address "high risk" products or suppliers which require extra due diligence obligations from operators;
- The decision as to whether to recognise a monitoring organisation should be made at the EU level to ensure harmonised standards;
- Enhanced means of control and monitoring of trade in timber by national authorities. These controls should be conducted in accordance with a yearly plan and/or on the basis of substantiated concerns provided by third parties or in any case where the competent authority is in possession of information that questions compliance by the operator;
- If the operator is presumed to have infringed the regulatory requirements, the competent authorities may start a full investigation of the infringement and take immediate measures, which may, *inter alia*, include the immediate cessation of commercial activities and the seizure of timber and timber products;
- Regarding penalties, the EP states that they may be criminal or administrative, must be effective, proportionate and dissuasive, and shall include where appropriate *inter alia*: (i) financial penalties representing at least five times the value of the timber products obtained by committing a serious infringement; (ii) seizure of timber and timber products; (iii) temporary prohibition from marketing timber and timber products. Where legal proceedings are pending, operators shall suspend sourcing timber and timber products from the areas in question;
- Deletion of the exemption for "energy wood" and biomass, on the grounds that these will be subject to future mandatory EU sustainability criteria; and
- A requirement for the Commission to present a proposal on a Community standard for all timber and timber products sourced from natural forests aimed at achieving the highest sustainability requirements within one year after entry into force of the Regulation. The Commission shall review the Regulation three years after its entry into force (and every five years thereafter), report its conclusions and on that basis present any proposals for amendments.

³⁹ [European Parliament legislative resolution of 22 April 2009 on the proposal for a regulation of the European Parliament and of the Council laying down the obligations of operators who place timber and timber products on the market](#) (COM(2008)0644 – C6-0373/2008 – 2008/0198(COD))

2.5.2 Establishing a framework for the protection of soil

Introduction to Commission Proposal

The Commission's proposal for a framework Directive on the protection of soil (COM(2006)232) put forward in September 2006 was published alongside the TS on soil protection (COM(2006)231).

While there are various EU policies (for instance on water, waste, chemicals, industrial pollution prevention, nature protection, pesticides and agriculture) that contribute to soil protection, the proposed Directive is the first ever Community legislative instrument aimed at dealing explicitly with the preservation of soil functions, prevention of soil degradation and mitigation of its effects, restoration of degraded soils and the integration of these principles into other sectoral policies. The Commission proposed the soil Directive in light of evidence of the increasing degradation of soils across the EU, with negative impacts on food production, natural ecosystems, climate change, human health and the economy.

Description of contents of Commission proposal

The proposed Directive focuses on the preservation of soil functions, defining seven key environmental, economic, social and cultural functions of soil, and looks to ensure the prevention of soil degradation which may undermine its ability to perform these functions. This is to be achieved by mitigating the effects of harmful processes resulting from both human and natural activity. Importantly the proposal also looks to the restoration and remediation of degraded soils "to a level of functionality consistent at least with the current and approved future use".

Under the proposed Directive, Member States are required to take action in three key areas:

- Preventative measures: Member States must ensure a sustainable use of soil and if soil is used in a way that hampers its functions, mitigating actions must be taken. The impacts of other policies on soil must be assessed, such as spatial planning, transport, energy, agriculture, rural development and forestry;
- Identification of the problem: Member States must identify areas at risk of erosion, decline in organic matter, salinisation, compaction, sealing and landslides, and should also set up a public inventory of contaminated sites; and
- Operational measures: Member States must act to reduce the risks and remedy the problems identified by adopting programmes of measures for risk areas (including risk reduction targets and a timetable for implementation), national remediation strategies for contaminated sites, and measures to limit or mitigate soil sealing (the permanent covering of the soil surface with an impermeable material).

The proposal also obliges sellers and buyers to produce a soil status report for any transaction of land where a potentially contaminating activity has taken place, or is currently taking place. The requirement for a soil status report reflects the important role of the site owner in ensuring the protection of soil, which is essentially a privately owned commodity. It also links to important principles such as "polluter pays" and the need to establish liability if there is to be effective remediation of land. In line with this emphasis it is proposed that the environmental liability Directive (2004/35/EC) be amended, in order to sit with requirements under the proposal in relation to the remediation of contaminated sites.

The Commission is also required to set up a platform for the exchange of information between Member States and with stakeholders on implementation of the Directive.

Comparison between EP position and Commission proposal

The EP proposed substantial amendments to the proposed Directive on soil protection at its first reading in November 2007⁴⁰. Some of the key amendments proposed by the EP are outlined below.

- **Emphasis on voluntary codes, good practices, best available techniques (BAT) and information sharing:** the EP introduced several amendments emphasising the use of “soft” policy measures which aim to ensure the improvement of Europe’s soils in a more harmonised way while ensuring flexibility and not overly restricting Member States. Within five years of transposition of the Directive, MEPs want Member States to develop voluntary codes of good practice for activities that may “hamper soil function”. Meanwhile, within two years of transposition the Commission will be required to develop guidelines, based on best practice, for the identification of priority areas. The concept of BAT is introduced in relation to remedial action, while a new annex has been added outlining possible elements for inclusion in the codes of good practice. Finally, the EP added more specific clauses on the exchange of good practice, and called on the Commission to facilitate the distribution of information;
- **Proposal for a Directive on biowaste:** the EP amendments include a requirement that a proposal on biowaste be presented by the Commission no later than two years after the entry into force of the soil Directive. A proposed Directive on biowaste was originally intended to be adopted as part of the soil strategy package but was ultimately dropped by the Commission in favour of a system of quality standards. Originally conceived to focus on composting, MEPs are calling for the new biowaste measure to also promote the use of biogas;
- **Increased reference to the role of agriculture in the management of soils:** the EP also added a new section to the proposed Directive on the agricultural use of soils, highlighting the development of standards under cross compliance and agri-environment measures aimed at protecting soil;
- **Support for a risk-based approach:** the EP calls on the Commission, no later than three years after the Directive’s entry into force, to adopt a priority list of dangerous substances on or in the soil. Additionally, European reference values based on risk assessment of these substances would be established;
- **Elaboration of certain objectives:** including valuable soils, geogenically contaminated soils, the need for an integrated approach to provisions in existing directives, and the integration of the soil’s function to act as a carbon store in future soil policies;
- **Extend coverage of priority areas to cover new risks:** including subsidence, desertification, adverse effects of climate change on soil, soil biodiversity loss and acidification;
- **Enhance role of information exchange and coordination:** through the platform established under Article 17 which reduces the role of the more binding comitology procedure; and
- **Amendments to Annexes:** the EP also proposed to make changes to Annex I and II of the Commission proposal. Annex I lists elements to be used by the Member States to identify risk areas of erosion, organic matter decline, compaction, salinisation and landslides. Here the EP proposed to add a section with elements to be used to identify risk areas of acidification. With respect to Annex II which lists potentially soil polluting activities, the EP proposed to make this list indicative and to move certain activities to Article 10 (Article 12 in the EP text). Member States would therefore only be obliged to identify the sites where activities listed in Article 10 are taking place or have taken place in the past.

⁴⁰ [European Parliament legislative resolution of 14 November 2007 on the proposal for a directive of the European Parliament and of the Council establishing a framework for the protection of soil and amending Directive 2004/35/EC \(COM\(2006\)0232 – C6-0307/2006 – 2006/0086\(COD\)\)](#)

State of play (June 2009)

At the December 2007 Environment Council, a blocking minority of Member States stalled discussions on the proposal on the grounds of subsidiarity, proportionality and cost. Following this, there have been failed attempts under both the French and Czech Presidencies to restart negotiations within the Council. However little or no progress has been made and it remains unclear whether a “weakened” version of the original proposal will eventually be adopted or whether the Directive will remain in political limbo and ultimately be abandoned.

2.6 Climate Change

In March 2007 EU leaders endorsed a set of ambitious targets to tackle climate change and promote renewable energy to 2020 and beyond. These targets include: a unilateral commitment to reduce the EU’s GHG emissions by 20% compared to 1990 levels by 2020 (or by 30% if other industrialised nations commit to comparable reductions under a global agreement); increasing the share of renewable energy in total EU energy consumption to 20% by 2020; increasing the share of renewable energy in transport fuels to 10% by 2010; and a non-binding target to reduce total EU energy consumption by 20% by 2020.

In January 2008, the Commission put forward a package of legislative proposals which aim to translate these high-level political commitments into concrete actions by Member States. These proposals form part of the EU’s climate and energy package and were formally adopted in April 2009. The six legislative measures of the climate and energy package are: Directive 2009/29/EC amending Directive 2003/87/EC so as to improve and extend the Community greenhouse gas emission allowance trading scheme; Directive 2009/28/EC on the promotion of the use of energy from renewable sources; Directive 2009/31/EC on the geological storage of carbon dioxide; Decision 406/2009/EC on the effort of Member States to reduce their greenhouse gas emissions to meet the Community’s greenhouse gas emission reduction commitments up to 2020; Regulation (EC) No 443/2009 setting emission performance standards for new passenger cars; and Directive 2009/30/EC as regards the specification of petrol, diesel and gas-oil and introducing a mechanism to monitor and reduce greenhouse gas emissions. These measures are discussed in sections 2.6.1 - 2.6.6 below.

In addition to these six legislative measures, two other climate change related legislative measures were adopted respectively in November 2008 and May 2006: Directive 2008/101/EC amending Directive 2003/87/EC so as to include aviation activities in the scheme for greenhouse gas emission allowance trading within the Community and Regulation (EC) No 842/2006 of 17 May 2006 on certain fluorinated greenhouse gases. These legislative measures are discussed in sections 2.6.7 and 2.6.8 below.

2.6.1 Strengthening and expanding the EU Emission Trading Scheme

Introduction to Commission proposal

Directive 2003/87/EC set up an EU-wide GHG Emission Trading Scheme (EU ETS) to help reduce emissions in a cost-effective manner. The first period of the EU ETS ran from 2005 to 2007 and was used to refine the scheme’s operation for its second trading period which runs from 2008 to 2012 to coincide with the Kyoto commitment period. The scheme applies to all activities listed in Annex I (i.e. large power stations and refineries and large factories that produce steel, cement, glass, ceramics and paper) and initially included CO₂ emissions only. From 2008 Member States are allowed to widen the scope of the scheme and unilaterally apply emissions allowance trading to activities, installations and associated GHG not included in Annex I, provided that they have the Commission’s approval.

The Commission's proposal to improve and extend the EU ETS (COM(2008)16) aims to strengthen the EU-wide carbon market for its third phase, which will run from 2013 to 2020. The proposed measures include: extending the scope of the ETS to all major industrial emitters; the inclusion of other GHG (currently the scheme only applies to CO₂ emissions); allowances to be centrally allocated by the Commission (rather than through 27 national allocation plans); and the power sector to face full auctioning of permits from 2013 while auctioning in other sectors is to be phased in from 2013 with the aim of achieving full auctioning by 2020. By 2010, the Commission is to identify sectors at risk of "carbon leakage" (especially relocating due to competitive pressures). Based on this analysis and the state of international negotiations, in 2011 the Commission may propose measures to compensate for competitive pressures, either by increasing the free allocation of permits to identified sectors or requiring importers to buy permits to neutralise their competitive advantage.

Description of contents of adopted text

Following intense negotiations, the EP and Council reached a first reading compromise agreement on the proposal in December 2008⁴¹. The final text was formally adopted in April 2009.

Directive 2009/29/EC amending Directive 2003/87/EC so as to improve and extend the Community greenhouse gas emission allowance trading scheme significantly alters the EU ETS, particularly in the way it sets the cap and allocates allowances.

- o **Scope:** The scope of the ETS is expanded to cover new sectors (such as the petrochemical, ammonia and aluminium sectors) and to two new gases (nitrous oxide and perfluorocarbons);
- o **Cap:** The revised Directive sets a single EU-wide cap which replaces the existing 27 national caps;
- o **Auctioning:** The principle of full auctioning for allocation is introduced, starting with power plants in 2013. A transitional free allocation of allowances will apply to certain power plants in new Member States, which will face from 30% auctioning in 2013 increasing to 100% in 2020. Auctioning in the manufacturing sector will be phased in gradually - in 2013 the sector will be subject to 20% auctioning, increasing to 70% by 2020, "with a view to" reaching full auctioning in 2027;
- o **Carbon leakage:** A broad exception is inserted for industrial sectors at risk of carbon leakage which may be eligible to receive up to 100% of their allowances for free from 2013. The Commission is to identify these sectors by December 2009, and by June 2010 to report on the carbon leakage implications of any new international climate change agreement and put forward proposals accordingly;
- o **Opt-outs:** Smaller installations that emit under 25,000 tonnes of CO₂ per year will also be allowed to opt out of the ETS, provided that alternative reduction measures are put in place;
- o **Carbon Capture and Storage (CCS):** CO₂ captured and safely stored according to the EU legal framework will be considered as not emitted under the ETS. In addition, up to 300 million allowances will be made available from the new entrants' reserves until the end of 2015 to subsidise the construction of up to 12 CCS demonstration plants and support projects on innovative renewable energy technologies;
- o **Proceeds from auctioning:** Governments agreed to the principle that "at least 50%" of the proceeds from auctioning "should" be used for climate-related adaptation and mitigation purposes; and

⁴¹ [European Parliament legislative resolution of 17 December 2008 on the proposal for a directive of the European Parliament and of the Council amending Directive 2003/87/EC so as to improve and extend the greenhouse gas emission allowance trading system of the Community](#) (COM(2008)0016 – C6-0043/2008 – 2008/0013(COD))

- **Future action:** The Commission is to put forward a proposal to include emissions from international maritime transport in the EU reduction commitment from 2013, should the International Maritime Organisation (IMO) fail to agree an appropriate method by December 2011. The text also states that the EU should seek to establish an internationally recognised system for reducing deforestation, increasing afforestation and reforestation, supporting the development of appropriate financing mechanisms within the context of a post-2012 international agreement on climate change.

Comparison between EP position and adopted text

The main disputed issues are summarised below.

A key amendment made by the EP was the expansion in the number of “small” installations exempted from the scheme, raising the threshold for installations up to 35 MW rated thermal input, from the original 25 MW, and reported emissions of less than 25,000 tonnes of CO₂ equivalent, as opposed to the original 10,000 tonnes, in each of the preceding three years.

The agreed compromise text lowered the amount of credits auctioned in certain sectors and Member States. The EP had called for a complete phase-out between 2013 and 2020⁴², but the final text states that the level of auctioning will reach 70% in 2020 “with a view” to full auctioning in 2027.

The EP conceded to a lowering of the amount of credits auctioned to 15% instead of the original 20% recommended for the manufacturing sector. However the adopted text still requires full auctioning by 2020.

Taking the opportunity to revisit Directive 2008/101/EC on emissions from aviation, the EP proposed that the aviation sector receive 85% of allowances for free from 2013, and that this quota would decrease by equal amounts each year, resulting in no free allocation in 2020. Despite these calls for the aviation sector to be treated like other manufacturing sectors, the sector will receive under the adopted text 85% of the allowances for free for the whole period.

A caveat that unless incorporated into other measures, emissions from shipping will be included in the ETS from 2013. Furthermore, the amendments call on the Commission to submit legislative proposals by 2013 to specify the date for the inclusion of freight transport by road, mining and the waste sector into the ETS.

The EP demanded the establishment of a ceiling of 500g per kilowatt hour - which essentially forces the use of CCS - for coal power, and in doing so rejected a call for a 350g limit, which would also have pushed many gas facilities to CCS. The EP’s demand, however, was rejected by the Council.

The EP’s call for setting aside 500 million carbon allowances from the ETS new entrants’ reserve to co-finance the construction of CCS demonstration plants was lowered to 300 million allowances in the final compromise, and will support both the construction of CCS plants and projects on innovative renewable energy technologies.

⁴² [Report of 15 October 2008 on the proposal for a directive of the European Parliament and of the Council amending Directive 2003/87/EC so as to improve and extend the greenhouse gas emission allowance trading system of the Community](#) (COM(2008)0016 – C6-0043/2008 – 2008/0013(COD))

The EP mandated that all auction revenues be directed to climate change action or to fund research and development, with half of the revenues spent in developing countries to help reduce emissions or to reverse deforestation, and the other half used to fund climate change projects inside the EU. This was up from the 20% of the revenue in the Commission's original proposal. This requirement was toned down in the final agreement to state that "at least 50%" of the proceeds from auctioning should be used for climate-related adaptation and mitigation purposes.

2.6.2 Sharing the EU's GHG reduction commitment

Introduction to Commission proposal

The proposed Decision on "effort sharing" (COM(2008)17) covers sectors of the economy not covered by the EU ETS (i.e. households, buildings, transport, services, agriculture and smaller installations) which currently account for 60% of the total EU GHG emissions. The proposal sets individual GHG reduction targets for Member States, which together with the targets to reduce industrial emissions through the EU ETS will enable the EU to reach its overall target of reducing GHG emissions by 20% by 2020. These new targets will replace those set under the Kyoto Protocol, which are due to expire in 2012. The EU target for emissions from non-ETS sectors has been allocated among Member States on the basis of their GDP. Should international negotiations result in an agreement among industrialised countries, these individual targets will be revised upward so as to reach an overall EU emissions reduction target of 30 per cent.

Description of contents of adopted text

Following intense negotiations, the EP and Council reached a first reading compromise agreement on the proposed Decision in December 2008⁴³. The final text was adopted in April 2009.

Decision 406/2009/EC on the effort of Member States to reduce their GHG emissions to meet the Community's GHG emission reduction commitments up to 2020 lays down national reduction targets in the non-ETS sectors. The overall reduction for the EU-27 is 10% below 2005 levels, with effort divided among Member States according to their per capita GDP. Annex II of the Decision determines the percentage for each Member State relative to its emissions in 2005.

Corrective action will apply when a Member State exceeds its annual GHG emission limit. Member States will have to compensate for this underachievement in the following year, and in addition the excess emissions will be multiplied by a mandatory abatement factor of 1.08, further reducing the emissions allowed for the next year. The compromise text allows Member States to transfer part of their allowed GHG emission allocation to subsequent years and to other Member States.

Member States can also purchase credits resulting from projects in third countries under the Kyoto Protocol's CDM. However, the annual use of such credits may not exceed 3% of the GHG emissions of that Member State in 2005. In addition to this 3%, certain Member States with stricter targets will be able to use additional credits from projects in the least developed countries and small island developing states, amounting to 1% of their 2005 emissions.

⁴³ [European Parliament legislative resolution of 17 December 2008 on the proposal for a decision of the European Parliament and of the Council on the effort of Member States to reduce their greenhouse gas emissions to meet the Community's greenhouse gas emission reduction commitments up to 2020](#) (COM(2008)0017 – C6-0041/2008 – 2008/0014(COD))

In terms of future action, the Decision calls on the Commission to put forward a proposal to include emissions and removals related to land use, land use change and forestry (LULUCF) in the EU's reduction commitment should an international agreement not be in place by December 2010. By June 2011, the Commission should assess the modalities for including emissions and removals from LULUCF, including consideration of how this will affect the distribution of Member States' emission reduction efforts, and put forward a proposal with the aim of its entry into force in 2013. The text also calls on the Commission to propose strengthened or new measures to accelerate energy efficiency improvements by December 2012. Finally, in the context of an international agreement on climate change, the Commission will put forward proposals to amend the Decision on how to share the effort of adjusting to a higher 30% reduction target among Member States. The final allocation will however be approved through the co-decision procedure between the EP and the Council.

Comparison between EP position and adopted text

The main disputed issues are summarised below.

- **Automatic linear adjustment of targets:** The EP had pushed for the proposal to state that if an international agreement on curbing climate change was signed the EU would automatically switch to committing to a 30% reduction. This change also provided an annual linear binding pathway for the EU by creating longer-term goals requiring planning that was lacking in the original proposal. This linear pathway included a 50% reduction of emissions by 2035 and a 60-80% reduction by 2050, compared to 1990 levels. This however was not acceptable to the Council and was omitted from the final text.
- **Penalties:** The EP approved implementing sanctions for countries that fail to meet their targets, with fines set at €100 per tonne of CO₂ equivalent emitted. In addition to the penalty, the Member State loses its auctioning rights. Any amount over the target will need to be compensated by a factor of 1.3 in the following year. These sanctions were not incorporated in the final text. However a new article on corrective action was included which applies when a Member State exceeds its annual GHG emission limit; and
- **Access and quality of international credits:** The EP sought to limit access to international carbon credits generated by Kyoto's flexible mechanisms, which would account for up to 8% of their 2005 emissions over the whole period from 2013 to 2020. Furthermore, amendments also require Member States to report on the quality of external offset credits following non-binding guidance on criteria, as set out in a recital. The final compromise however increased the amount of credits for CDM in third countries to 3% of Member States' 2005 emissions each year.

2.6.3 Carbon capture and storage (CCS)

Introduction to Commission proposal

The Commission's proposal for a Directive on the geological storage of carbon dioxide, also known as the CCS Directive (COM(2008)18) aimed to establish a legal framework for the permanent, safe and responsible containment of CO₂. The proposed Directive ensures that CCS is regulated under the IPPC Directive (2008/1/EC), and that both CCS and pipeline transport are made subject to EIA requirements under Directive 85/337/EEC, concerning the assessment of the effects of certain public and private projects on the environment. The bulk of the Directive, therefore, concerns the regulation of CCS and the removal of unintended barriers in existing legislation to CCS.

Description of contents of adopted text

Following intense negotiations, the EP and Council reached a first reading compromise agreement on the proposed Decision in December 2008⁴⁴. The final text was adopted in April 2009.

Directive 2009/31/EC on the geological storage of carbon dioxide sets out a regulatory regime for the permitting of exploration and storage of CO₂; and establishes criteria for the selection of storage sites. The requirements on site selection are designed to ensure that only sites with a minimal risk of leakage are chosen. According to the Directive, Member States should determine the areas to be made available for storage, the conditions for site use, and the provisions governing exploration. However, the Directive provides for a review of draft permit decisions on storage by the Commission, assisted by an independent scientific panel. The Directive also covers operation, closure and post-closure obligations, including CO₂ acceptance criteria, monitoring and reporting obligations, inspections, measures in case of irregularities and/or leakage, and provision of a financial guarantee.

The competent authority in Member States must ensure that inspections are carried out to verify that the provisions of the Directive are observed. Routine inspections must be carried out at least once a year. In addition, non-routine inspections must be carried out if any leakage has been notified, if the operator's annual report to the competent authority shows that the installation is not in compliance with the Directive, or if there is any other cause for concern.

A monitoring plan must be set up to verify that the injected CO₂ is behaving as expected. For any leaked CO₂, corrective measures must be taken and ETS allowances must be surrendered, to compensate for the fact that the stored emissions were credited under the ETS as not emitted. Finally, the requirements of the environmental liability Directive (2004/35/EC) on repairing local damage to the environment will apply in the case of leakage.

Annex I of the Directive specifies detailed criteria for the requirements on site characterisation and risk assessment, while Annex II specifies detailed criteria for monitoring requirements.

Under the agreed text, operators of new power plants with an output of more than 300MW are required to assess whether suitable storage sites and transport facilities are available and if it is technically and economically feasible to retrofit the power station for the capture of CO₂. If these conditions are met, authorities in Member States are required to guarantee that "suitable space on the installation site for the equipment necessary to capture and compress CO₂ is set aside".

The EU ETS will provide the main incentive for the deployment of CCS technology. CO₂ captured and safely stored according to the EU legal framework will be considered as not emitted under the ETS. In Phase II of the ETS (2008-12) CCS installations can be opted in. For Phase III (2013 onwards), under the amended ETS Directive, capture, transport and storage installations will be explicitly included in the ETS. Furthermore, up to 300 million allowances in the new entrants' reserve under the EU ETS will be made available to stimulate the construction and operation of up to 12 commercial demonstration projects to capture and store CO₂ and for innovative renewable energy demonstration technologies in the EU.

⁴⁴ [European Parliament legislative resolution of 17 December 2008 on the proposal for a directive of the European Parliament and of the Council on the geological storage of carbon dioxide and amending Council Directives 85/337/EEC, 96/61/EC, Directives 2000/60/EC, 2001/80/EC, 2004/35/EC, 2006/12/EC and Regulation \(EC\) No 1013/2006 \(COM\(2008\)0018 – C6-0040/2008 – 2008/0015\(COD\)\)](#)

Comparison between EP position and adopted text

The amendments adopted by the EP⁴⁵ created a funding mechanism that set aside 500 million carbon allowances from the new entrants' reserve to co-finance the construction of CCS demonstration plants. Together with the benefit of not having to buy allowances because they do not emit CO₂, CCS demonstration plants would effectively get double crediting. However, the Council only wanted to reserve 100-200 million allowances for CCS projects. The compromise text calls for 300 million ETS allowances to be awarded to large scale CCS projects in the EU; the value of this support will depend on the price of CO₂ at the time.

According to the amendments, once CCS plants are running, their operators would be legally responsible for storage sites for at least 50 years after their closure. After this period, the Member State would be liable for the closed site. During the period when CO₂ is being injected underground, the amendments established a new financial mechanism that operators must pay annual contributions into. This fund will help to cover the cost of potential liabilities as well as monitoring, oversight and remediation before and after responsibility for a closed storage site has been passed on to the national authority. Since the Member State will now be liable, the Committee has allowed Member States two years instead of one after the Directive's publication to transpose it into their national laws.

In addition, the EP had sought to introduce a new provision setting a mandatory "emission performance standard" for new power plants with a capacity of more than 300MW. The EP had wanted to cap emissions from these large power plants at a maximum of 500g CO₂/kWh on an annual average basis from 2015 onwards. Thus, future power stations would have been obliged to adopt CCS. However, this provision was not included in the final compromise.

2.6.4 Promoting renewable energy

Introduction to Commission proposal

The Commission's proposal for a new renewable energy Directive (COM(2008)19) aims to ensure that renewable energy makes up at least 20% of the EU's total energy consumption by 2020. In order to achieve this target, the new Directive sets out mandatory national targets to be achieved by Member States through the promotion of the use of renewable energy in the electricity, heating and cooling, and transport sectors.

One of the most controversial measures included in the proposal was the binding target requiring 10% of the final energy consumed in all forms of transport to be from renewable sources by 2020. The vast majority of this is expected to be met from biofuels. For biofuels to count towards this target, they need to demonstrate a minimum level of GHG savings of 35%, and meet a set of sustainability criteria.

Description of contents of adopted text

Following intense negotiations, the EP and Council reached a first reading compromise agreement on the proposed Directive in December 2008⁴⁶. The final text was adopted in April 2009.

⁴⁵ [Report on the proposal for a directive of the European Parliament and of the Council on the geological storage of carbon dioxide and amending Council Directives 85/337/EEC, 96/61/EC, Directives 2000/60/EC, 2001/80/EC, 2004/35/EC, 2006/12/EC and Regulation \(EC\) No 1013/2006](#) (COM(2008)0018 – C6-0040/2008 – 2008/0015(COD))

⁴⁶ [European Parliament legislative resolution of 17 December 2008 on the proposal for a directive of the European Parliament and of the Council on the promotion of the use of energy from renewable sources](#) (COM(2008)0019 – C6-0046/2008 – 2008/0016(COD))

Directive 2009/28/EC on the promotion of the use of energy from renewable sources outlines a two-step process for national targets: all Member States are to increase the share of renewable energy by 5.5% – any additional increases are determined on the basis of GDP, with an adjustment to reward early movers. Each Member State will also have to increase its share of renewable energy in transport to 10%. Second generation biofuels, which do not compete with food or feed production, will be double credited towards the target, and renewable electricity consumed by electric cars will be counted at 2.5 times its input.

The Directive allows Member States to cooperate to achieve their renewable targets jointly, for example by running joint projects or transferring renewable energy “statistically” between each other. Coordination is also possible to allow renewable energy produced in one Member State to count towards the national target of another Member State. The same rule applies to “green” electricity produced by newly constructed joint projects with third countries and consumed in the EU. The Directive requires Member States to develop transmission and distribution grid infrastructure, intelligent networks, storage facilities and electricity systems that can be operated safely while accommodating renewable energies. Green electricity should either be given priority or guaranteed grid access.

The Directive establishes binding criteria to ensure that biofuels production is sustainable. In order to count towards the 10% target, biofuels should achieve a minimum 35% reduction of GHG emissions from 2013 compared to fossil fuels; this will need to increase to 50% from 2017 onwards. For biofuels produced in installations starting operation after January 2008, GHG emissions savings must be at least 60% from 2017 onwards. By 2010 the Commission is to develop a methodology to measure the GHG emissions caused by indirect land use changes which pose a significant risk of outweighing GHG benefits. The Directive excludes those biofuels made from raw materials cultivated on land with “high biodiversity value” or with a “high carbon stock”.

The final compromise requires the Commission to monitor the impact of the EU’s biofuel policy and if necessary propose corrective action, especially if increased biofuels production leads to rising prices or impacts social sustainability in the EU and in third countries. An evaluation of the implementation of the Directive, scheduled to take place by 2014, will not affect the overall 20% target. The review will however assess whether the 10% transport target is feasible.

Comparison between EP position and adopted text

The EP proposed to set an interim target of 5% by 2015 for renewables in road transport fuel⁴⁷. Of the 5% interim target, 4% could consist of traditional biofuels, but at least 1% should come from alternatives that do not compete with food production, such as electricity and hydrogen produced from renewable, and second-generation biofuels. This EP amendment, however, was left out of the final agreement.

The EP also determined that at least 40% of the 10% target for 2020 would have to come from second-generation biofuels, electricity or hydrogen, unless a revision to take place in 2014 would determine otherwise. This EP request was not included in the final compromise. However, the Directive establishes that second generation biofuels will be double credited towards the target, and renewable electricity consumed by electric cars will be counted at 2.5 times its input.

⁴⁷ [Report of 26 September 2008 on the proposal for a directive of the European Parliament and of the Council on the promotion of the use of energy from renewable sources](#) (COM(2008)0019 – C6-0046/2008 – 2008/0016(COD))

The EP tightened the sustainability criteria requesting that biofuels save at least 45% of GHG emissions compared to fossil fuels and that from 2015 onwards the savings increase to at least 60%. However, the minimum GHG savings demanded by the EP was significantly lowered, from 45% to 35%. From 2017 onwards, GHG savings must be at least 50% instead of the 60% requested by the EP for installations in operation before January 2008. The saving of 60% will apply only to biofuels produced in new installations from 2017 and not for all installations as demanded by the EP.

In addition, the EP inserted social sustainability criteria, including land rights of local communities or the fair remuneration of workers, but these were notably excluded in the final agreed text. The Directive merely requires the Commission to report every two years on the impact of increased biofuels demand on social sustainability in the EU and in third countries, the respect of land use rights, and the ratification and implementation of a series of ILO Conventions. However, the Commission's first report will not be until 2012.

2.6.5 Fuel quality

Introduction to Commission proposal

Directive 98/70/EC established minimum specifications for petrol and diesel fuels for use in road and non-road mobile applications. The aim of the proposal for the revision of Directive 98/70/EC and Directive 1999/32/EC⁴⁸ (COM(2007)18) put forward in January 2007 was to contribute to reducing air pollutant and GHG emissions from road and non-road fuel use and to help implement the Community strategies on air quality and climate change. The Commission asserts that this revision will lead to lower emissions of PM, enable the use of higher volumes of biofuels, and reduce GHG emissions from the fuels regulated. According to the Commission, the main reasons for this proposal stem from evolving fuel and engine technology and the growth in biofuel use. As the last modification of Directive 98/70/EC only affected the sulphur limits for petrol and diesel, fuel quality has to be reviewed in parallel to respond to the continuing evolution of Community pollutant emissions legislation and the links between vehicle technology and fuel quality.

More specifically, with respect to road vehicles, and non-road mobile machinery, agricultural and forestry tractors, and recreational craft when not at sea, the proposal sets:

- technical specifications on health and environmental grounds for fuels to be used with positive ignition and compression-ignition engines; and
- a target for the reduction of lifecycle GHG emissions.

Description of contents of adopted text

Following intense negotiations, the EP and Council reached a first reading compromise agreement on the revised Directive in December 2008⁴⁹. The final text was adopted in April 2009.

⁴⁸ Which establishes sulphur limits for certain liquid fuels and inter alia specifically refers to the fuel used in inland waterway vessels.

⁴⁹ [European Parliament legislative resolution of 17 December 2008 on the proposal for a directive of the European Parliament and of the Council amending Directive 98/70/EC as regards the specification of petrol, diesel and gas-oil and introducing a mechanism to monitor and reduce greenhouse gas emissions from the use of road transport fuels and amending Council Directive 1999/32/EC, as regards the specification of fuel used by inland waterway vessels and repealing Directive 93/12/EEC \(COM\(2007\)0018 – C6-0061/2007 – 2007/0019\(COD\)\)](#)

Under Directive 2009/30/EC regarding the specification of petrol, diesel and gas-oil and introducing a mechanism to monitor and reduce greenhouse gas emissions, from 1 January 2008 gas oils intended for use by non-road mobile machinery (including inland waterway vessels), agricultural and forestry tractors and recreational craft may be marketed within a Member State's territory only if their sulphur content does not exceed 1000 mg/kg. From 1 January 2011, the maximum permissible sulphur content shall be 10 mg/kg. According to the agreed text, petrol suppliers must ensure the placing on the market of petrol with a maximum oxygen content of 2.7% and a maximum ethanol content of 5%. In the case of diesel fuel, Member States may permit the placing on the market of diesel with a fatty acid methyl ester (FAME) content greater than 7%. Appropriate information concerning biofuel contents shall be provided to consumers. Member States with low ambient summer temperatures may permit the placing on the market, during the summer period, of petrol with a maximum vapour pressure of 70 kPa. Member States where this derogation is not applied may permit the placing on the market, during the summer period, of petrol containing ethanol with a maximum vapour pressure of 60 kPa.

Member States shall require suppliers to gradually reduce lifecycle GHG emissions per unit of energy from fuel and energy supplied by up to 10% by 31 December 2020, compared with the fuel baseline standard referred to in the Directive. This reduction shall be carried out sequentially as follows: 6% by 31 December 2020 (with the possibility for Member States to require that suppliers comply with intermediate targets); an indicative additional target of 2% by 31 December 2020 (to be achieved through the supply of energy for transport and/or the use of any technology (including CCS); and an indicative additional target of 2% by 31 December 2020 (to be achieved through the CDM of the Kyoto Protocol).

The compromise text ensures that only those biofuels that fulfil the sustainability criteria will be used (see section 2.6.4). Where biofuels are to be taken into account for the purposes of GHG emission reductions, Member States shall require economic operators to show that the sustainability criteria have been fulfilled by using mass balance system. Rules for the calculation of lifecycle GHG emissions from biofuels have been laid down in Annex I of the compromise text.

With effect from 1 January 2011, suppliers shall report annually on the GHG intensity of fuels and energy supplied within each Member State to the designated authority. Measures necessary for the implementation of these provisions shall be adopted in accordance with the regulatory procedure with scrutiny (comitology). The Directive requests the Commission to submit by 31 December 2012, and every three years thereafter, a report accompanied where appropriate by a proposal to amend the Directive. At the latest in 2014, the Commission shall submit a report relating to the achievement of the GHG emission target for 2020.

Comparison between EP position and adopted text

The EP proposal for an easier to enforce reduction of 2% every two years⁵⁰ (presented as an alternative to the 1% a year proposed by the Commission) was not accepted and instead the adopted text allows for an increased level of flexibility. This seems however to come at the expense of both the level of ambition in the target set and the objective to facilitate monitoring.

⁵⁰ [Report of 6 December 2007 on the proposal for a directive of the European Parliament and of the Council amending Directive 98/70/EC as regards the specification of petrol, diesel and gas-oil and introducing a mechanism to monitor and the introduction of a mechanism to monitor and reduce greenhouse gas emissions from the use of road transport fuels and amending Council Directive 1999/32/EC, as regards the specification of fuel used by inland waterway vessels and repealing Directive 93/12/EEC](#) (COM(2007)0018 – C6-0061/2007 – 2007/0019(COD))

In fact, the final text foresees three different ways in which the level of lifecycle GHG emissions per unit of energy shall be reduced by 10% by 2020: 6% through the use of biofuels, alternative fuels and reductions in flaring and venting at production sites; a further (indicative, non-binding) 2% obtained through the use of environmentally friendly CCS technologies and electric vehicles; and a further (indicative, non-binding) 2% reduction obtained through the purchase of credits under the CDM of the Kyoto Protocol.

The Commission's proposal intended to determine the well-to-wheel approach, in particular for the calculation of lifecycle GHG emissions from biofuels, by means of comitology, which would have resulted in a number of important political choices being made by the Commission in consultation with national experts. The EP proposed a number of guidelines, to ensure that it would have a say in this process. These guidelines, to be fleshed out later by means of the comitology procedure, are laid down in a new Annex of the adopted Directive.

In addition, the guidelines for the calculation of lifecycle GHG emissions from biofuels in the adopted text set sustainability criteria as requested by the EP. The adopted text ensures that only biofuels that fulfil the sustainability criteria will be used. Where biofuels are to be taken into account for the purposes of GHG reductions, Member States shall require economic operators to show that the sustainability criteria have been fulfilled.

It should be noted that the EP did not support the approach of the Commission regarding the collection of data on GHG emissions from the supplier as these were to be used to determine the standard for each company (the EP saw this as being in contradiction with the logic of the internal market). Hence the EP pushed for the introduction of a common standard with a base year either in the past or as soon as possible after adoption of the Directive. The approach in the final text no longer foresees the collection of data to determine the standard for each company; hence the EP position seems to have been followed on that point.

The final text reflects an approach which is different from the top-runner approach proposed by the EP under which the best company (or the average of the top three companies) would have set the standard for the rest to ensure an adequate level of ambition for reaching the proposed target of 1% per year. The compromise text stipulates that this reduction should be compared to the EU-average level of lifecycle GHG emissions per unit of energy from fossil fuels in 2010.

The EP also argued for the introduction of two different standards for heavy oil and light oil on the basis of data on actual emissions by fuel producers. It considered this necessary to ensure that a genuine reduction is achieved rather than a general move towards light oil which requires less processing and refining. The compromise text does not make such a distinction.

Finally, the EP recommended that the use of the additive MMT in fuel be prohibited from 1 January 2010 onwards and that the Commission develop a suitable test methodology concerning the use of metallic additives in fuel other than MMT. While the compromise text requests the Commission to conduct an assessment of the risks for health and the environment from the use of metallic additives and to develop a test methodology, it foresees that, pending the development of this methodology, the presence of MMT in fuel shall be limited to 6mg Mn per litre from 1 January 2011. The limit shall be 2mg from 1 January 2014. The limit for the MMT content of fuel shall be revised on the basis of the results of the assessment carried out using the test. It may be reduced to zero if justified by the risk assessment.

2.6.6 Reducing CO₂ emissions from passenger cars

Introduction to Commission proposal

Progress towards meeting the Community objective of achieving an average level of emissions (by means of improvements in vehicle motor technology) from the new car fleet of 120g CO₂/km, as set out in Communication COM(2007)19 has been very slow. The Commission's proposal for a Regulation setting emission performance standards for new passenger cars (COM(2007)856) put forward in December 2007 aims to ensure the proper functioning of the internal market for passenger cars by guaranteeing that average specific emissions of new passenger cars in the Community do not exceed 130g CO₂/km from 2012 onwards. This is part of an integrated approach to reducing CO₂ emissions and will be complemented by measures to deliver an additional 10g CO₂/km (such as other technological improvements and an increased use of biofuels).

The proposal adheres to the spirit and targets of the previous Communication, particularly regarding targets, timescales and the adoption of an integrated approach. It also provides for the splitting of the specific target for each manufacturer on the basis on the "utility parameter" of mass. The proposal introduces a system of penalties, calculated on a base amount and increasing as of 2012, in the event that the targets are not being achieved. The excess emissions premium was to be calculated by multiplying the number of grams of CO₂/km by which the manufacturer exceeded its target by the number of cars newly registered and by the excess emissions penalty for the year. The excess emissions penalty would be €20 per tonne of CO₂ for emissions in 2012, €35 for emissions in 2013, €60 for emissions in 2014 and €95 for emissions in 2015 and each subsequent year. An exemption mechanism is envisaged for manufacturers whose sales within the EU do not exceed 10,000 units, who were nevertheless to be assigned an "ad hoc" specific target to be negotiated with the Commission. Lastly, the proposal allows manufacturers the possibility of forming "pools" or groups and hence of collectively meeting the targets.

Description of contents of adopted text

Following intense negotiations, the EP and Council reached a first reading compromise agreement on the proposed Regulation in December 2008⁵¹. The final text was adopted in April 2009.

Regulation (EC) No 443/2009 setting emission performance standards for new passenger cars sets targets for the specific emissions of CO₂ from new passenger cars in the Community as a function of their mass. The text supports the objective proposed by the Commission of an average level of emissions of 120g CO₂/km for the entire car industry by 2012. It sets the average level of CO₂ emissions for new passenger cars at 130g CO₂/km by means of improvement in vehicle motor technology and innovative technologies. This will be complemented by additional measures corresponding to 10g CO₂/km as part of the so-called integrated approach.

The targets will apply to the average specific emissions of CO₂ in g/km for new passenger cars for each manufacturer registered in the EU in each calendar year. Manufacturers may form a pool in order to meet their targets. Where two or more manufacturers form a pool, the pool will be treated as if it is one manufacturer for the purposes of determining its compliance with the targets. The text includes a target, for the new car fleet, of average emissions of 95g CO₂/km from 2020.

⁵¹ [European Parliament legislative resolution of 17 December 2008 on the proposal for a regulation of the European Parliament and of the Council setting emission performance standards for new passenger cars as part of the Community's integrated approach to reduce CO₂ emissions from light-duty vehicles \(COM\(2007\)0856 – C6-0022/2008 – 2007/0297\(COD\)\)](#)

The targets under the Regulation are established on the basis of the best knowledge available regarding in particular the likely evolution of the car fleet between now and 2012 in respect of weight increase. Specific emission targets for the purpose of determining compliance by individual manufacturers of alternative fuel vehicles shall apply.

Member States will be obliged to collect data on new cars registered in their territory and report this data to the Commission to assess compliance with the targets. For each calendar year from 2012 onwards for which a manufacturer's average emissions of CO₂ exceed its specific emissions target in that year, the Commission shall impose an excess emissions premium on the manufacturer.

New elements include the possibility for suppliers or manufacturers to apply for consideration of CO₂ savings achieved through the use of innovative technologies and the introduction of super-credits (in calculating the average specific CO₂ emissions, each new passenger car with specific CO₂ emissions of less than 50g CO₂/km CO₂ shall count as: 3.5 cars in 2012; 3.5 cars in 2013; 2.5 cars in 2014; 1.5 cars in 2015; and 1 car from 2016).

Comparison between EP position and adopted text

The EP expressed its overall support for the Commission's proposal and in particular supported its subject matter, targets and objectives. While it approved the targets and the timescales proposed by the Commission, the EP considered it a priority to revert to the position it adopted on long-term targets and to propose an average level of emissions of no more than 95g CO₂/km by 2020. The EP suggested that the precise target would be set by the Commission following a review of the Regulation that should be conducted by 2014, and should be preceded by an overall impact assessment coupled with an analysis of the economic, environmental and social effects on the entire production chain. The compromise introduced a target, for the new car fleet, of average emissions of 95g CO₂/km from 2020.

While fully supporting the choice of the integrated approach in the launch phase of the system, the EP suggested it might be more appropriate to allow the car industry to decide on the arrangements for meeting the specific targets assigned. Whether the targets set are achieved by means of technical advances, complementary measures or any other means should not enter into the legislative debate, provided that the results are quantifiable and can be assessed using existing and future test cycles. The EP therefore called on the Commission to consider the possibility of eliminating, in the long-term, the distinction between complementary measures and measures relating to motor vehicles.

The compromise text supports the objective proposed by the Commission of an average level of emissions of 120g CO₂/km for the entire car industry by 2012 and sets the average level of CO₂ emissions for new passenger cars at 130g CO₂/km by means of improvement in vehicle motor technology and innovative technologies. Hence the additional flexibility requested by the EP is reflected in the compromise text. It will be complemented by additional measures corresponding to 10g CO₂/km as part of the integrated approach.

The Commission's choice to opt for a mass parameter did not reflect the approach favoured by the EP. The EP supported the possibility envisaged by the Commission of using the alternative utility parameter of footprint (track width x wheelbase) as it was seen as providing greater guarantees from an environmental viewpoint given that it would be less prone to causing undesirable effects (i.e. an increase in mass in order to have a less stringent target). Although the alternative utility parameter of footprint was not adopted in the compromise text, the text requires the Commission to review the availability of data and if appropriate submit a proposal to adapt the utility parameter by 2014.

Regarding excess emissions premiums, the EP proposed that proceeds from these should be used to finance both incremental research and innovative technologies. The compromise version of the text does not make a link between the premiums and the funding of research, merely stipulating that appropriate funding should be ensured in the Community budget to promote the development of technologies to reduce radically CO₂ emissions from road vehicles.

The EP agreed with the Commission proposal concerning penalties applicable in the event of the targets not being met, but expressed its willingness to consider solutions that would make the system more flexible in the first phase of its application (2012-2015) while at the same time rewarding and encouraging a better approach from manufacturers. The compromise, which specifies the formula for calculating the premium between 2012 and 2018, and another formula to be used from 2019 onwards, for calculating the premium, seems to accommodate the preference of the EP for a more flexible system.

For the time being, reduction targets defined through a footprint-based limit value, although recommended by the EP, will not be the practice under the approved Regulation. The possibility of a 70g CO₂/km by 2025, subject to a confirmation or review by the Commission no later than 2016, which was also envisaged in the EP's resolution, did not find its way into the compromise text.

2.6.7 Including aviation in the EU ETS

Introduction to Commission proposal

International aviation was explicitly left out of the 1997 Kyoto Protocol with specific responsibility for reducing GHG emissions from the sector delegated to the International Civil Aviation Organization (ICAO). However, to date, ICAO has done little to address emissions from aviation, which is the fastest growing source of man-made GHG emissions. As a result of this inaction, the EU has pushed to address emissions from this sector on its own, and in December 2006 the Commission issued a proposal to include the aviation sector in the EU ETS (COM(2006)818). The proposal involves imposing a cap on CO₂ emissions for all planes arriving at or departing from EU airports while allowing airlines to buy and sell emission permits on the EU carbon market, and essentially represents an amendment to the original Directive (2003/87/EC) that established the EU ETS. The proposal recommended the inclusion of aviation in the ETS in two steps: from the start of 2011, emissions from all domestic and international flights between EU airports would be covered; and one year later, at the start of 2012, the scope would be expanded to cover emissions from all international flights - from or to anywhere in the world - that arrive at or depart from an EU airport.

Description of contents of adopted text

Agreement on the proposal was reached at second reading⁵² and the final text was adopted in November 2008.

Directive 2008/101/EC amending Directive 2003/87/EC so as to include aviation activities in the scheme for greenhouse gas emission allowance trading within the Community requires all flights to be included in the EU ETS from 2012. Under the scheme aircraft operators will have to monitor their emissions and report them to the competent authority. The basic principles for monitoring, reporting and verifying of emissions set out in the proposal will be elaborated by subsequent guidelines.

⁵² [European Parliament legislative resolution of 8 July 2008 on the Council common position for adopting a directive of the European Parliament and of the Council amending Directive 2003/87/EC so as to include aviation activities in the scheme for greenhouse gas emission allowance trading within the Community \(5058/3/2008 – C6-0177/2008 – 2006/0304\(COD\)\)](#).

The total number of allowances to be allocated is determined by reference to average emissions from aviation in the years 2004-2006. The number of allowances to be allocated to airlines would be capped at 97% of average GHG emissions in 2004-2006. This cap would then be lowered to 95% for the 2013-2020 period, unless agreement on a different figure is reached during negotiations on the revised EU ETS. However, despite efforts by the EP, the treatment of the aviation sector remained unchanged during the revision of the ETS (see section 2.6.1).

Under the Directive, 85% of the permits will be handed out to operators for free, while the remaining 15% will be auctioned. The use of the revenues received from the auctioning process will be determined by the Member States, although the Directive suggests they should go towards funding climate change mitigation, research on clean aircraft, anti-deforestation measures in the developing world, and low-emission transport. The EU is also required to seek an agreement on global measures to reduce GHG emissions from aviation. Bilateral agreements, for example with the US, could be a first step in this regard.

Comparison between EP position and adopted text

The EP proposed a number of amendments at first reading⁵³ to the Commission's proposal which would make the system somewhat more demanding – including a tighter cap, more auctioning, a multiplier to account for non-CO₂ impacts⁵⁴, and a start to international coverage in 2011 rather than having a year's delay.

The Council rejected most of the EP amendments and adopted a less environmentally ambitious compromise. The Council's agreement included very low levels of auctioning, returned the cap to the Commission's less stringent proposal, and abolished the multiplier factor, while allowing the sector unlimited rights to buy credits from other sectors. However, most of these were re-tabled in the EP's second reading in April 2008 based on the amendments of the EP Environment Committee. Following a series of meetings, the EP and Council reached a compromise agreement on the proposal, which retained most of the Council's preferences.

The final compromise includes 30 amendments to the original legislative proposal, mainly covering the following issues: allocation, percentage of auctioning, use of revenue from auctioning, use of special reserve for new entrants and rapidly growing operators, timing and content of review of provisions and exclusions from scheme. Under the compromise, the number of allowances allocated to airlines would be capped at 97% of average GHG emitted in 2004-2006. This was far less ambitious than the figure of 90% requested by the EP, while Member States were demanding a figure of 100%. According to the Directive, 15% of the permits would be auctioned; this is in contrast to the EP position that a suitable starting figure would be 25%.

The final compromise does not apply a multiplier to account for NOx emissions, as demanded by the EP. Furthermore, the final agreement does not require that revenues from auctioning are earmarked for research on improving efficiency in the aviation sector or for investment into "green" modes of transport as demanded by the EP. The final text only seeks to make recommendations as to what the revenue could be spent on and requests Member States to report on how they spend the money.

⁵³ [European Parliament legislative resolution of 13 November 2007 on the proposal for a directive of the European Parliament and of the Council amending Directive 2003/87/EC so as to include aviation activities in the scheme for greenhouse gas emission allowance trading within the Community](#) (COM(2006)0818 – C6-0011/2007 – 2006/0304(COD))

⁵⁴ The multiplier of 2 means that for every tonne of CO₂ emitted above the cap, airlines would have to buy 2 allowances from other land based sectors within the ETS. This measure reflects the greater climate impact of aviation when compared to ground based sources.

2.6.8 Fluorinated gases in stationary and mobile equipment

Introduction to Commission proposal

The Commission's proposal for a Directive relating to emissions from air conditioning in motor vehicles (COM(2003)492) and proposal for a Regulation covering fluorinated gases in stationary equipment (COM(2003)492) put forward in August 2003 aim to curb emissions of fluorinated GHG (F-gases), which are included in the basket of gases covered by the Kyoto Protocol. Perfluorocarbons (PFCs), hydrofluorocarbons (HFCs) and sulphur hexafluoride (SF₆) are used in a variety of commercial and industrial applications. By far the main set of substances at issue are HFCs, used mainly in cooling equipment, including stationary refrigeration and air conditioning, as well as automobile air conditioning. HFCs were introduced as a replacement for chlorofluorocarbons (CFCs) and to some extent for hydrochlorofluorocarbons (HCFCs), which are being phased out under the Montreal Protocol as they damage the ozone layer.

The proposals originated from a proposal derived from a stakeholder consultation group of the European Climate Change Programme (ECCP) which recommended a framework Directive promoting "containment" of F-gases, with limited marketing and use restrictions, coupled with voluntary agreements and some form of support to alternative (non F-gas) substances. This idea was originally transformed by the Commission to a plan to amend the ozone Regulation 2037/2000 as part of an initiative to reduce the proliferation of legislation. Industry balked at linking HFCs to any kind of phase-out, which is the goal of the ozone Regulation, and some Member States similarly found Regulation 2037/2000 a less than ideal model due to its rather difficult implementation requirements. As a result, a freestanding Regulation emerged as the Commission proposal in August of 2003.

Parallel but separate from the ECCP working group was a process focussed on limiting emissions of HFC-134a in mobile air conditioning (MAC) systems. Following expert consultations and a major stakeholder event, the Commission moved quickly to propose what amounts to a phase-out of HFC-134a, by limiting MACs to substances with global warming potentials (GWPs) lower than 150. The text of the MAC Directive was proposed together with the Regulation and considered in parallel.

These two pieces of legislation are dealt with together in this section as that is how they were treated through most of the legislative process, only splitting at a later stage for reasons noted below.

Description of contents of adopted text

The main requirements under Regulation 842/2006 on certain F-gases, adopted in May 2006 include:

- **Containment:** an obligation to use all measures that are "technically feasible and do not entail disproportionate cost" to prevent leakage and repair any detected leakage;
- **Inspection:** by certified personnel, annually for systems with 3kg or more, more frequently for larger systems, and less frequently for hermetically sealed systems;
- **Leakage detection systems:** for equipment with charges over 300kg;
- **Record keeping:** of F-gases installed, added or recovered during maintenance, servicing and final disposal;
- **Recovery:** of F-gases at end of life "to the extent that it is technically feasible and does not entail disproportionate cost";
- **Labelling:** F-gases containing equipment shall have the substance identified on the equipment;
- **Training and certification:** programmes will be required, and personnel must be trained;
- **Reporting:** producers, importers and exporters who handle over one tonne per year will have to report quantities handled;

- **Control of use:** i.e. bans on the use of SF₆ in magnesium die-casting from 2008, except in small installations; on the filling of tyres with SF₆; and
- **Placing on the market:** i.e. bans on F-gases in non-refillable containers; directly emitting refrigeration (for example “self-chilling cans”); perfluorocarbons in fire protection; F-gases in windows, footwear, tyres, and gap-filling “one-component” foams (except where required by safety standards); and HFCs in novelty aerosols (such as “fake snow” and “silly string”). All of these are on different time scales.

The main requirements under Directive 2006/40 relating to emissions from air conditioning systems in motor vehicles and amending Council Directive 70/156/EEC adopted in May 2006 include:

- The Commission must agree a harmonised leak detection test;
- Within 12 months of adoption of a leak test or 1 January 2007, whichever is later, Member States may not grant type approval to vehicles containing refrigerants with GWP greater than 150, with leakage over 40g/year or 60g/year for a double evaporator system;
- Member States must grant type approval to those vehicles using and passing that test;
- Within 24 months of the adoption of the leak test or 1 January 2008, whichever is later, all vehicles, not just new vehicle types, must meet the leakage limit;
- Starting on 1 January 2007, Member States may not grant type approval for vehicles with refrigerants above 150 GWP;
- On 1 January 2011 all vehicles must not have refrigerants above 150 GWP; and
- Retrofits are limited in a similar manner.

Comparison between EP position and adopted text

During the debate in the EP Environment Committee, there were two major areas of discussion: first were amendments to introduce new restrictions under Annex 2 of the Regulation, which deals with phase-outs; although some votes were very close, no amendments were passed. Second was a significant objection to the use of an internal market legal base, Article 95 of the EC Treaty, instead of Article 175 on the environment. The impact of the former would be to eliminate the option of Member States to enact national regulations more stringent than the EU Regulation, which is what Denmark and Austria had already done; they would see their legislation overturned. The Environment Committee voted for a dual legal basis as a compromise, in April 2004. However, the plenary opted to continue with the internal market legal base in its vote at the end of March⁵⁵. Subsequently, the Council legal service argued that a single environment legal base was appropriate, and Denmark, Austria and Sweden continued to argue for this option. In Council discussions in October of 2004, the dual legal basis was reintroduced as a compromise, and the MAC section was split into a separate legislative effort – an amendment to the vehicle type approval Directive.

⁵⁵ [European Parliament legislative resolution on the proposal for a European Parliament and Council regulation on certain fluorinated greenhouse gases](#) (COM(2003) 492 – C5-0397/2003 – 2003/0189(COD)).

The EP began its second reading in the autumn of 2005; the subsequent Environment Committee vote was a surprise in particular to the various affected industries that had seen their preferred version of the legislation making its way from conception through the first reading. A range of amendments now expanded marketing and use restrictions to foams, aerosols, refrigeration and air conditioning of different sizes, and shifted the legal basis to Article 175. Following a major lobbying effort, the EP plenary vote⁵⁶, in a highly unusual move, reversed all of the Committee's important amendments, returning the document largely to its previous form.

The conciliation procedure was completed on 31 January 2006, and the EP approved the final version on 6 April 2006⁵⁷. The Regulation and Directive entered into force on 4 July 2006 and most provisions of the Regulation took effect on 4 July 2007. Pursuant to the terms of the Regulation, several subsequent Regulations were passed in 2007 to enact some of the more detailed requirements.

2.7 Noise Pollution

Further to its 1996 Green Paper on Future Noise Policy (COM(1996)540) the Commission developed a new framework for EU noise policy. The key piece of legislation in this area is Directive 2002/49/EC on environmental noise, which requires competent authorities in Member States to produce strategic noise maps on the basis of harmonised indicators, to draw up action plans to address noise issues, and to inform the public about noise exposure and its effects. Other more specific Directives also exist, addressing noise from various sources including motor vehicles, tyres, aircraft and airports, railways and rolling stock, recreational craft, household appliances and equipment for use outdoors.

There were no major developments in EU policy on noise between 2004 and 2009. No new noise legislation was approved in this period and there are no current outstanding proposals for legislation in this area. This section will thus examine any missing legislation on noise and old legislation which might need to be revised.

2.7.1 Missing and old legislation

Article 11 of the environmental noise Directive (2002/49/EC) states that the Commission should submit an implementation report no later than 18 July 2009. This report is intended to assess implementation of the Directive, propose implementing strategies (if appropriate), review the acoustic environment quality in the Community (taking account of scientific and technical progress), and assess the need for further Community action on environmental noise. The report may be accompanied by proposals for amendments to the Directive. This report will therefore provide an important opportunity to discuss the effectiveness of existing EU noise legislation and the potential need for new legislative initiatives.

⁵⁶ [European Parliament legislative resolution on the Council common position for adopting a regulation of the European Parliament and of the Council on certain fluorinated greenhouse gases](#) (16056/5/2004 – C6-0221/2005 – 2003/0189A(COD))

⁵⁷ [European Parliament legislative resolution on the joint text approved by the Conciliation Committee for a regulation of the European Parliament and of the Council on certain fluorinated greenhouse gases](#) (PE-CONS 3604/2006 – C6-0065/2006 – 2003/0189A(COD))

It is worth recalling that Directive 2002/49/EC had a difficult passage through the legislative process, which ended in a conciliation procedure. The EP generally fared well in these ultimate negotiations, securing a provision mandating the Commission to put forward appropriate proposals to reduce noise emitted by major sources (including road, rail, aircraft, outdoor and industrial equipment and mobile machinery) within four years of the Directive's entry into force. The EP did, however, have to compromise on an extension of the range of noise intensity that Member States have to monitor, map and publish, securing less of an extension than it had demanded. This could therefore be an area to consider revisiting during the forthcoming review of the Directive.

The EP has repeatedly stressed the need for further cuts in environmental noise limit values, for improved measurement procedures for environmental noise and for additional source reduction measures. For instance, in a resolution of 11 March 2009 on the greening of transport and the internalisation of external costs⁵⁸, the EP called on the Commission to draw up a proposal for a Directive with a view to introducing noise-related track access charges for locomotives and wagons to provide incentives for railway undertakings to re-equip their fleets rapidly with low-noise vehicles by replacing brake blocks. It also suggested that short-term measures may be considered. Measures to reduce railway noise at source are one of the areas in which the Commission was required to submit further legislative proposals pursuant to Directive 2002/49/EC and has manifestly failed to do so. The same applies for the other major sources of environmental noise mentioned in the Directive, such as road vehicles, aircraft, outdoor and industrial equipment and mobile machinery.

The EP has also previously called for the setting of EU limit values for noise around airports (including an eventual ban on night flights) and also for noise reduction measures to be extended to cover military subsonic jet aircraft. A proposal to amend Directive 2002/30/EC on noise-related operating restrictions at Community airports is included in the Commission's work programme for 2009, and is reportedly under preparation. This proposal may offer an important opportunity to re-evaluate the existing legislative framework in the field of aircraft noise and influence the establishment of appropriately harmonised standards for noise around airports.

2.8 Sustainable Consumption and Production

2.8.1 Community ecolabel scheme

Introduction to Commission Proposal

The Commission's proposal (COM(2008)401) put forward in July 2008 is designed to replace Regulation (EC) No 1980/2000 on a revised Community ecolabel award scheme. The overall objective of the ecolabel award scheme is to encourage the sustainable production and consumption of products, and the sustainable provision and use of services. This is done by setting benchmarks for the good environmental performance of products and services, based on the top performers in the market. By guiding consumers towards them, the ecolabel logo should promote those products and services that have met these benchmarks compared to others in the same category. However, according to the Commission, the current scheme (which has already been revised once) is not achieving its objectives as it suffers from low awareness of the label and low uptake by industry, resulting from overly bureaucratic processes.

⁵⁸ [European Parliament resolution of 11 March 2009 on the greening of transport and the internalisation of external costs \(2008/2240\(INI\)\)](#)

Thus, as a part of the Sustainable Consumption and Production and Sustainable Industrial Policy (SCP/SIP) Action Plan (COM(2008)397), the Commission proposed several modifications and simplifications to the existing scheme (see section 1.10).

Description of contents of Commission proposal

According to the Commission proposal, the revision of the ecolabel scheme aims to increase awareness of the EU ecolabel, establish criteria for the products and services where the ecolabel can provide the most benefits, ensure more ecolabel products are available for consumers to choose from, draw up criteria documents which can easily be used by public purchasers, harmonise the scheme with other labels globally and nationally, and reduce the costs associated with obtaining the ecolabel while maintaining its credibility.

These aims are to be attained by a series of modifications and simplifications to the current scheme which include: designing the Regulation to fit better with other sustainable production and consumption actions as well as other ecolabelling schemes to reduce the administrative burden on companies; simplifying the procedure for criteria development; introducing a template for criteria documents to ensure they are more user-friendly and focus more on the most significant environmental impacts; incorporating guidance for green public procurement in the criteria development; abolishing the annual fees and simplifying assessment procedures. The proposal would also introduce a peer review procedure for competent bodies and mandatory environmental performance standards for products. These benchmarks will also be used for developing and implementing other environmental policy tools, such as environmental criteria for public purchasers and potential future minimum standards for products.

Comparison between EP position and Commission proposal

The EP adopted its position at first reading in April 2009 following a compromise agreement reached with the Council⁵⁹. The main amendments proposed to the Commission's position are as follows:

- Competent bodies shall ensure that the verification process is carried out in a consistent, neutral and reliable manner by a party independent from the operator being verified, based on international, European or national standards and procedures;
- The EU Ecolabelling Board (EUEB) shall consist of the representatives of competent bodies of all Member States and shall ensure balanced participation of all relevant interested parties with respect to each product group, such as competent bodies, manufacturers, producers, retailers, service providers, wholesalers and importers, notably SMEs;
- General requirements for the ecolabel criteria shall be determined on a scientific basis and consider the whole lifecycle of products. Furthermore, the following criteria will also be taken into consideration: (i) the substitution of hazardous substances by safer substances, as such or via the use of different materials or design changes, where it is technically feasible; (ii) the potential to reduce environmental impacts due to durability and reusability of products; (iii) where appropriate, social and ethical aspects;
- The development of criteria shall as far as possible take into account the goal of reducing animal testing;
- Before developing criteria for food and feed products, by 31 December 2011 at the latest, the Commission shall undertake a study exploring the feasibility of establishing reliable criteria covering environmental performance during the lifecycle of such products, including the products of fishing and aquaculture;

⁵⁹ [European Parliament legislative resolution of 2 April 2009 on the proposal for a regulation of the European Parliament and of the Council on a Community Ecolabel scheme](#) (COM(2008)0401 – C6-0279/2008 – 2008/0152(COD))

- The ecolabel may not be awarded to goods containing substances or preparations/mixtures meeting the criteria for classification as toxic, hazardous to the environment, carcinogenic, mutagenic or toxic for reproduction (CMR), nor to substances referred to in Article 57 of Regulation 1907/2006/EC (REACH);
- When establishing ecolabel criteria, care shall be taken not to introduce measures whose implementation may impose disproportionate administrative and economic burdens on SMEs;
- Concerning the development and revision of the ecolabel criteria, stakeholders may be put in charge of leading the development of criteria. In this case, they must demonstrate expertise in the product area, as well as the ability to lead the process with neutrality and in line with the aims of the regulation; and
- The Commission shall set up a working group of competent bodies to exchange information and experience.

2.8.2 Community eco-management and audit scheme (EMAS)

Introduction to Commission proposal

The Community eco-management and audit scheme (EMAS) (Regulation (EC) No 761/2001) is a voluntary scheme for the evaluation and improvement of environmental performance of organisations and the provision of credible information on organisations' environmental performance to the public and other interested parties. The proposal to revise EMAS (COM(2008)402) put forward in July 2008 aimed to increase the efficiency and attractiveness of scheme. To achieve this goal it proposes to strengthen legal compliance, report on core performance indicators, allow registrations for organisations outside the Community and simplify the rules for using the EMAS logo. The proposal includes a possibility to recognise non-formal environmental management systems or parts of such systems to fulfil EMAS requirements thus making it easier for organisations to participate in the scheme. The proposal also includes requirements for Member States to promote the scheme and increase incentives such as regulatory relief or deregulation and provide assistance for organisations willing to participate in EMAS. It was presented as part of the SCP/SIP Action Plan (COM(2008)397) (see section 1.10).

Description of contents of Commission proposal

The objective of the proposed revision to the EMAS Regulation is to allow voluntary participation for all organisations located inside or outside the Community, promote continual improvements in the environmental performance of the organisations, provide objective evaluation of the implementation of the environmental management systems and provide information to the public and other interested parties on environmental performance.

The content of the Regulation can be divided into several elements including requirements for registration, rules for Competent Bodies responsible for the registration of the organisations, for the Accreditation and Licensing Bodies, and for the environmental verifiers that verify organisations' environmental management systems and validate the information of environmental statements.

Participation in EMAS is possible for all organisations inside or outside the Community. An organisation with sites located in several countries may apply for one single registration of all or some of these sites. For clusters including independent organisations related to each other by geographical proximity or business activities each organisation shall be registered separately. To ensure local accountability, significant environmental impacts shall be identified and reported on each site within the corporate environmental statement.

The requirements to be fulfilled by the organisation applying for EMAS, namely environmental review, an environmental management system, internal environmental audit and environmental reporting, are presented in the Annexes of the Regulation. The environmental management system in EMAS is based on the requirements of the ISO 14001:2004 standard. In addition organisations shall fulfil some more specific requirements set for environmental review, legal compliance, environmental performance, involvement of employees and open dialogue with the public and other interested parties. According to the Regulation, organisations shall draw up an environmental statement at least every three years and report on the core environmental performance indicators which include, if applicable: energy efficiency, material efficiency, water, waste, biodiversity and GHG and other atmospheric emissions. Indicators available in the sectoral reference documents prepared under the EMAS Regulation shall be taken into account. Organisations are required to update their environmental statement in the intervening years.

Registered organisations are allowed to use the EMAS logo in their communication and marketing. The use of the logo is partly restricted: it should not be used on products or their packaging or in conjunction with comparative claims concerning other activities and services or in a way that creates confusion with environmental product labels.

Comparison between EP position and Commission proposal

The EP adopted its position at first reading in April 2009 following a compromise agreement reached with the Council⁶⁰. The main amendments proposed to the Commission's position are as follows:

- Deletion of the environmental performance report, maintaining the current system of annual updates to the environmental statement;
- Possibility for Member States to appoint a Licensing Body instead of an Accreditation Body, for issuing licences to and supervising environmental verifiers;
- Significance of environmental risks and substantiality of the changes when considering the extension of the reporting frequency of small organisations;
- Restricting the use of the EMAS logo;
- Specification that the verifier shall be an external third party;
- Lift the obligatory character of the requirements set for Member States to promote EMAS;
- Change the reporting obligation of Member States to the Commission from annual reporting to a report every five years;
- A user's guide setting out the steps needed to participate in EMAS; and
- The Commission to establish a working plan for sectoral reference documents and to review EMAS no later than five years after the Regulation's entry into force.

2.8.3 Ecodesign requirements for energy using products

Introduction to Commission proposal

Directive 2005/32/EC establishing a framework for the setting of ecodesign requirements for energy-using products (the so called EuP Directive) is the first Directive requiring the incorporation of lifecycle-based environmental considerations into the product development process. The key objectives of the EuP Directive are to ensure the free movement of EuP within the internal market and to contribute to sustainable development by increasing energy efficiency and the level of protection of the environment, while at the same time increasing the security of the energy supply. The EuP Directive is a framework Directive that defines how to prepare product group-specific implementation measures in further detail, the types of regulations they may include, and how product compliance is to be demonstrated.

⁶⁰ [European Parliament legislative resolution of 2 April 2009 on the proposal for a regulation of the European Parliament and of the Council on the voluntary participation by organisations in a Community eco-management and audit scheme \(EMAS\) \(COM\(2008\)0402 – C6-0278/2008 – 2008/0154\(COD\)\)](#).

The purpose of the proposal for a Directive establishing a framework for the setting of ecodesign requirements for energy related products (COM(2008)399) put forward in July 2008 is to extend the scope of the EuP Directive to allow for the setting of ecodesign requirements for all energy related products. The proposal was presented as a part of the SCP/SIP Action Plan (COM(2008)397) (see section 1.10).

Description of contents of Commission proposal

The scope of the EuP Directive as currently in force is restricted to EuP (excluding means of transport). Mandatory minimum requirements corresponding to the performance of the product that has lowest lifecycle cost can be introduced through implementing measures. The aim of the proposal is to extend the scope of the Directive to allow the introduction of implementing measures for energy related product categories which are not EuP as currently defined and that have the highest potential for improvement of environmental performance. The proposed definition of an “energy related product” is “any good having an impact on energy consumption during use [...], including parts intended to be incorporated into energy related products covered by this Directive which are placed on the market and/or put into service as individual parts for end-users and of which the environmental performance can be assessed independently”.

Through this proposal the Commission aims to build an integrated sustainable environmental product policy, as complemented by initiatives on labelling and incentives relating to public procurement and taxation. In addition to setting minimum requirements for the placing on the market of products, it will enable the setting of environmental performance benchmarks referring to the best performing products on the market. This will provide a link to incentives relating to public procurement presented in the SCP/SIP Action Plan (COM(2008)397).

Comparison between EP position and Commission proposal

The EP adopted its position at first reading in April 2009 following a compromise agreement reached with the Council⁶¹. The main amendments proposed to the Commission’s position are as follows:

- The Commission shall no later than 21 October 2011 establish a working plan setting out for the following three years an indicative list of product groups which will be considered as priorities for the adoption of implementing measures; and
- No later than 2012, the Commission is to develop a methodology for the identification and coverage of significant environmental parameters, such as resource efficiency, considering the whole lifecycle of products. Following this review, the Commission shall notably assess the appropriateness of extending the scope of the Directive to non-energy-related products.

During discussions on the proposed Directive, the EP Environment Committee had proposed to extend the scope of the Directive to all products. This would have established a general Community-wide ecodesign Directive. However this position was not endorsed in the Plenary which accepted the Commission proposal to only extend the scope of Directive 2005/32/EC to “energy-related products”.

⁶¹ [European Parliament legislative resolution of 24 April 2009 on the proposal for a directive of the European Parliament and of the Council establishing a framework for the setting of ecodesign requirements for energy related products \(recast\)](#) (COM(2008)0399 – C6-0277/2008 – 2008/0151(COD))

2.9 Information, Access to Justice and Environmental Crime

2.9.1 Application of the Aarhus Convention to Community institutions

Introduction to Commission proposal

The Convention on Access to Information, Public Participation and Access to Justice in Environmental Matters (the Aarhus Convention) was drawn up within the framework of the United Nations Economic Commission for Europe (UNECE) and has been ratified by the EC and all Member States with the exception of Ireland. The Commission's proposal for a Regulation (COM(2003)622) put forward in October 2003 lays down rules to apply the provisions of the Convention to EC institutions and bodies by: guaranteeing the right of public access to environmental information held by Community institutions and bodies and setting out the terms and conditions of, and practical arrangements for, such access; providing for public participation in the preparation of plans and programmes relating to the environment; and granting access to justice in environmental matters at the Community level. This 'Aarhus' Regulation is complemented by a series of legislative measures introduced to implement the provisions of the Convention in Member States including Directive 2003/4/EC on access to environmental information and Directive 2003/35/EC on public participation in decision-making. A proposal for a Directive on access to justice in environmental matters has yet to be adopted (see section 2.9.2).

Description of contents of adopted text

The legal and institutional implications of application of the Convention to the Community institutions required detailed consideration and certain aspects of the proposal proved quite controversial. Following several years of negotiation, an agreement between the EP and Council was reached in conciliation and the Regulation was adopted in September 2006.

Regulation 1367/2006/EC mirrors the three "pillars" of the Aarhus Convention:

- o **Access to environmental information:** General provisions on public access to EP, Council and Commission documents were laid down in Regulation 1049/2001/EC which was adopted before the Community became a party to the Aarhus Convention. The requirements of the Aarhus Convention go beyond the provisions in this general access regime and specific rules had to be established on access to environmental information. The Aarhus Regulation extends the scope of the general access Regulation beyond the three main institutions with regards to environmental information and extends the right of access to non-EU citizens. Regarding exceptions to the right of access, Regulation 1367/2006/EC refers to the exceptions set out in Regulation 1049/2001/EC but stipulates that they "shall be interpreted in a restrictive way taking into account the public interest served by disclosure and whether the information requested relates to emissions into the environment". With the exception of investigations, in particular those concerning possible infringements of Community law, an overriding public interest in disclosure is deemed to exist where the information requested relates to emissions into the environment. Access to environmental information may also be denied where disclosure would "adversely affect the protection of the environment to which the information relates";

- **Public participation concerning plans and programmes relating to the environment:** The Regulation introduces a requirement for Community institutions and bodies to provide “early and effective” opportunities for public participation in the preparation of plans and programmes relating to the environment and to do so “when all options are still open”. This includes plans and programmes that are: subject to preparation and adoption by EC institutions and bodies; required under legislative, regulatory or administrative provisions; and that contribute to or have a significant effect on the achievement of Community environmental objectives. It excludes financial or budget plans and programmes “laying down how particular projects or activities should be financed or those related to the proposed annual budgets”, internal work programmes, and emergency plans and programmes for civil protection.
- **Internal review and access to justice:** The Regulation establishes a new procedure for “internal review” of “administrative acts under environmental law”. An “administrative act” is defined as “any measure of individual scope under environmental law, taken by a Community institution or body, and having legally binding and external effects”. This review procedure can be triggered by a written request for internal review within six weeks of the date of adoption, notification or publication of the administrative act, whichever is the latest. The procedure is open to environmental NGOs meeting specific criteria. The institution or body to which the request is addressed is obliged to consider it and send a written reply stating its reasons to the applicant NGO (unless the request is “clearly unsubstantiated”) no later than 12 weeks after the request is received. The organisation that made the request for internal review may in turn “institute proceedings before the Court of Justice in accordance with the relevant provisions of the Treaty” in cases where the Community institution or body has failed to adequately deal with their request.

Comparison between EP position and adopted text

The EP wanted the provisions under the general access regime (Regulation 1049/2001/EC) to be replaced by the more liberal rules of Directive 2003/4/EC to ensure equal access to environmental information held by EU institutions and by public authorities in Member States. However, in the final text adopted, the Council’s position on the issue prevailed with only minor variations made to the general access regime to ensure that the exception relating to industrial secrecy is not unduly relied upon to refuse disclosure of information on emissions.

The EP wanted to extend participation rights to the public in general and to limit the exemption for financial plans by including all plans and programmes subject to funding by the EU within the scope of the procedure. Both these amendments were successfully resisted by the Council and do not appear in the adopted text.

The EP was successful in extending the time-limit for the submission of comments by the public and in introducing language requiring Community institutions and bodies to “take due account of the outcome of the public participation” in their final decisions on relevant plans and programmes and to inform (not just “make reasonable efforts to inform”) the public of that plan or programme, including its text, and of the reasons and considerations upon which the decision is based.

The Council watered down provisions in the Commission's original proposal which provided for a possibility of appeal to the Court of Justice for judicial review. Although the EP's Environment Committee proposed an amendment to reinstate the provisions on judicial review as originally proposed by Commission, this position was not endorsed in Plenary. The adopted text refers to "the relevant provisions of the Treaty", which allow actions for judicial review to be brought only by persons which are "directly and individually concerned", a condition which has been interpreted very restrictively by the Court.⁶²

The EP succeeded in extending from four to six weeks the period during which NGOs may request the internal review of an administrative act concerning the environment.

Exceptions to the right of access to environmental information are not entirely consistent with the rules of Directive 2003/4/EC, thus access to environmental information held by EU institutions and public authorities in Member States is not guaranteed in an equal manner.

Participation rights are restricted to those parties "affected" or "having an interest" in specific plans or programmes, while plans and programmes subject to funding by the EU are excluded from the scope of the public participation procedure. Policies relating to the environment are excluded from the provisions on public participation, with the adopted text merely noting that the Convention "also requires that, to the extent appropriate, Parties shall endeavour to provide opportunities for public participation in the preparation of policies relating to the environment".

The Commission's proposal to circumvent the restrictive case-law of the Court of Justice on "direct and individual concern" was successfully watered down in the adopted text.

2.9.2 Access to justice in environmental matters

Introduction to Commission proposal

The Commission's proposal for a Directive on access to justice in environmental matters (COM(2003)624) put forward in October 2003 is designed to contribute to the implementation of the Aarhus Convention on Access to information, Public Participation in Decision-making and Access to Justice in Environmental Matters. The 2003 proposal on access to justice (which has not been adopted thus far) was part of a package of legislative measures proposed by the Commission prior to the approval of the Convention by the Council in 2005 to ensure compliance with the obligations resulting from this international instrument, not only within the Member States but also at the level of the EU institutions. The latter objective was pursued through a Regulation (1367/2006/EC) laying down provisions covering all three pillars of the Convention which are directly applicable to EU institutions and bodies (see section 2.9.1). At the same time, the proposed Directive also aims to improve the enforcement of environmental law in the Member States, by empowering members of the public to initiate proceedings in national courts.

Description of contents of proposal

The proposed Directive would establish the minimum conditions of access to administrative or judicial proceedings in environmental matters to be applied throughout the EU, thus seeking to create a more level playing field within the internal market, while respecting the administrative and judicial structures of the Member States.

In relation to access to justice regarding acts and omissions by private persons contravening environmental law, the Directive would leave it to the Member States to define the appropriate criteria for access to justice in accordance with the requirements of

⁶² See also Pallemarts, M. (2009) *Compliance by the European Community with its obligations on access to justice as a party to the Aarhus Convention*. IEEP, London/Brussels. http://www.ieep.eu/publications/pdfs/2009/aarhus_report.pdf

the Aarhus Convention. In relation to acts and omissions by public authorities, the proposal aims to further the enforcement of Community environmental law by requiring such acts and omissions to be subject to a procedural and substantive review, based on a two-tiered approach. Prior to starting proceedings before a national court or tribunal, qualified NGOs and other members of the public having legal standing would first have to give notice to the competent national public authority to allow for the administrative act or omission to be reconsidered. Thereafter, the same persons or NGOs should have access to administrative or judicial review proceedings allowing them to challenge acts and omissions which contravene provisions of environmental law.

The proposed Directive is still awaiting its first reading by the Council, more than five years after the EP adopted its first reading opinion approving the Commission proposal with amendments⁶³. Following this favourable opinion, the then Luxembourg Presidency of the EU tried to begin negotiations within the Council but soon gave up, after a first exchange of views revealed strong opposition from many Member States who argued that a Directive on this matter would infringe national procedural autonomy and violate the principle of subsidiarity. Under the Dutch presidency, the Council, at its meeting of 20 December 2004, decided to proceed with the approval of the Aarhus Convention without the prior adoption of a Directive implementing its third pillar. In the formal declaration of competence made by the EC upon approving the Convention in February 2005, it is acknowledged that Community law in force does not ensure full implementation of its access to justice provisions and that the duty to implement those provisions therefore falls upon individual Member States as long as no Community provisions on the matter have been adopted.

Comparison between EP position and Commission proposal

The EP wanted it to be specified in the text that the Directive was only establishing a minimum framework for access to justice in environmental matters, without prejudice to the right of Member States to maintain or introduce broader access to justice in environmental matters than required by the Directive. The most important amendment proposed by the EP concerned the definition of a "qualified entity", which it sought to broaden to include any association, organisation or group which, "at a given moment, is involved in a specific situation requiring protection of the environment in which it is located".

Further amendments included:

- Regular evaluation of the Directive after submission of reports by the Member States, possibly leading to revision on the basis of experience. The Commission should submit an evaluation report to the EP and the Council;
- A provision requiring Member States to adopt a procedure to ensure an expeditious recognition of qualified entities where they meet the criteria set out in the Directive, either on a case by case basis ("ad hoc"), or under an advance recognition procedure; and
- A requirement for Member States to ensure that members of the public are informed on how and when to institute environmental proceedings as well as the expected cost of proceedings, and to consider the establishment of appropriate assistance mechanisms to remove or reduce financial and other barriers to access to justice.

Although the Community unquestionably has the power, under Article 175(1) of the EC Treaty, to adopt EC legislation covering the issue of access to justice in environmental matters, it has thus far chosen not to exercise this power because a majority of Member States are opposed to the adoption of the proposed Directive (COM(2003)624). In 2006, the Commission ordered a comprehensive study of the state of individual Member State compliance with the access to justice provisions of the Aarhus Convention.

⁶³ [European Parliament legislative resolution on the proposal for a European Parliament and Council directive on access to justice in environmental matters](#) (COM(2003) 624 – C5-0513/2003 – 2003/0246(COD))

The results of this study, which provides a detailed analysis of the state of the law in 25 Member States as regards standing, costs, remedies and transparency, were published on DG Environment's website in 2007⁶⁴. Since then, no further initiatives have been taken by any Council presidency to re-launch the stalled negotiations between the Member States. The legislative proposal does however remain on the table and could be taken up again by the Council at any time.

2.9.3 Protection of the environment through criminal law

Introduction to Commission proposal

The Commission considered that existing sanctions in Member States were insufficient to ensure effective implementation of EC environmental policy due to disparities in the type and level of sanctions. Accordingly, in February 2007 the Commission proposed to define the most serious environmental offences and require Member States to ensure that these constitute criminal offences under their national law (COM(2007)51). Moreover, it also sought to achieve some measure of harmonisation of the level of sanctions for the most serious offences, by specifying that these should be punishable by imprisonment and laying down minimum and maximum duration, depending on the nature and circumstances of the offence. Finally, the proposal defined the conditions of liability of legal persons and also prescribed the level of fines to be applied to them for the most serious environmental offences. In the case of legal persons, Member States would have the choice between criminal or non-criminal fines.

Description of contents of adopted text

Directive 2008/99/EC adopted on 19 November 2008 requires Member States to declare certain polluting activities as punishable under criminal rather than less punitive administrative law. Article 3 requires Member States to take the necessary measures to establish among others the following as criminal offences under domestic law:

- The discharge, emission or introduction of a quantity of materials or ionising radiation into air, soil or water, which causes death or serious injury to any person or substantial damage to the quality of air, soil or water, or to animals or plants;
- The collection, transport, recovery or disposal of waste which causes death or serious injury to any person or substantial damage to the quality of air, soil or water, or to animals or plants;
- The illegal shipment of waste;
- The operation of a plant in which a dangerous activity is carried out or in which dangerous substances or preparations are stored or used and which, outside the plant, causes death or serious injury to any person or substantial damage to the quality of air, soil or water, or to animals or plants;
- The production, processing, handling, use, holding, storage, transport, import, export or disposal of nuclear materials which causes death or serious injury to any person or substantial damage to the quality of air, soil or water, or to animals or plants;
- The killing, destruction, possession or taking of specimens of protected wild fauna or flora species;
- Trading in specimens of protected wild fauna or flora species;
- Any conduct which causes the significant deterioration of a habitat within a protected site; and
- The production, importation, exportation, placing on the market or use of ozone-depleting substances.

⁶⁴ http://ec.europa.eu/environment/aarhus/study_access.htm

These acts are to be treated as criminal offences when unlawful and committed intentionally or “with at least serious negligence”. Member States must ensure that such conduct is punishable by “effective, proportionate and dissuasive criminal penalties”. “Inciting, aiding or abetting” the conduct referred to in Article 3 is also to be “punishable” as a criminal offence. The Directive, however, does not determine the type and level of the criminal penalties to be applied.

Sanctions have to be introduced not only to punish unlawful conduct by individuals, but also to punish the same environmental offences when committed by legal persons. In the latter case, however, Member States have a choice between the use of criminal or administrative sanctions. Therefore Member States need to ensure that legal persons – corporate legal entities under national law – can be held liable for intentional or negligent offences committed for their benefit by any person who has a leading position in the company. A company is also to be held liable where a lack of supervision by a leading person has made it possible to commit offences for the benefit of the company.

Comparison between EP position and adopted text

As agreement was reached between the EP and Council at first reading⁶⁵, the EP’s position corresponds to the final legislative act. The key amendments of the EP to the Commission’s proposal have been accepted by the Council and as a result kept in the final text.

The most important amendment to the Commission’s proposal was the deletion of the provisions on the harmonisation of the level and type of criminal sanctions from the draft proposal. This was done to reflect the ruling of the Court of Justice on 23 October 2007 with respect to a Framework Decision (2005/667/JHA) adopted by the Council on 12 July 2005 under the ‘third pillar’ of the EU Treaty on criminal-law enforcement of regulations against ship-source pollution. In this judgment the Court ruled that “the determination of the type and level of the criminal penalties to be applied does not fall within the Community’s sphere of competence”.

Another major amendment related to the scope of the Directive. The Commission had suggested that the Directive should apply not only to violations of Community environmental law and the relevant implementing provisions in Member States, but also to violations of national laws and regulations aimed at protecting the environment. However, the EP and Council decided to limit the Directive’s scope to specific Community legislation (including national implementing provisions) listed in two annexes: one listing legislation adopted within the scope of EC environmental policy, and the other four Directives on nuclear safety and radiation protection adopted under the Euratom Treaty.

The EP and Council also agreed to delete an article on reporting, imposing on Member States the obligation to transmit information to the Commission on the implementation of the Directive in the form of a report every three years.

⁶⁵ [European Parliament legislative resolution of 21 May 2008 on the proposal for a directive of the European Parliament and of the Council on the protection of the environment through criminal law](#) (COM(2007)0051 – C6-0063/2007 – 2007/0022(COD))

3 BACKGROUND NOTE FOR COMMISSIONER HEARINGS ON ENVIRONMENT

3.1 Introduction

As appears from the reports published by the European Environment Agency (EEA) – the next comprehensive EEA State of the Environment Report is due to be published in November 2010 – the environment in the EU continues to face serious pressures, though EU environmental policy has been successful in mitigating some of these pressures. Tackling climate change has arguably become the biggest issue on the EU environmental policy agenda and has indeed become an important item on several other agendas including energy, transport, agriculture and regional development. Biodiversity and the EU's failure to meet its target to halt the decline of biodiversity by 2010 is another issue now rising up the political agenda. These key priorities of EU environmental policy, along with a number of others identified in the 6EAP, will continue to present significant challenges in the 2009-2014 legislative period.

The first part of this chapter provides an overview of key issues which MEPs may wish to raise at the upcoming hearing of the Commissioner designate in autumn 2009. These issues reflect the main priorities and challenges related to the environment facing the EU in the next five years and beyond. This includes policy specific questions as well as more strategic issues which will need to be addressed.

The second part of this chapter provides a list of possible legislative ideas and suggestions based on previous initiatives of the Parliament and building on the analysis undertaken in the other parts of this report.

3.2 Recommended topics for Commissioner Hearings based on the main priorities and challenges for the 2009-2014 period

Some policy issues which could be raised during the forthcoming hearing of the designated Environment Commissioner are suggested below. These are based on a variety of sources: oral questions put to the Commission by MEPs during the sixth legislative term, the Commission's forecast for the next legislative period, including its Annual Policy Strategy for 2010 (COM(2009)73), a number of EP resolutions adopted during the sixth legislative term, EEA studies and reports, as well as previous studies commissioned by the EP.

Climate Change and Sustainable Energy

In the run-up to the Copenhagen climate conference in December 2009 this is likely to be the number one environmental issue on the incoming Parliament's and Commission's political agenda. Though new legislation putting the EU in a position to implement its unilateral commitment to reduce its GHG emissions by 20% by 2020 based on the 1990 reference level is now in place, this legislation still requires many implementing and complementary measures. Moreover, the further evolution of EU climate change policy will undoubtedly be influenced by the outcomes of the multilateral negotiating process under the auspices of the UNFCCC which will climax in Copenhagen.

- **Implementation of the climate and energy package:** How will the Commission ensure the effective implementation of measures adopted under the climate and energy package? Is the Commission itself on schedule in preparing all the necessary implementing measures for which regulatory authority was delegated to it by the EP and Council?

- **International negotiations:** How will the Commission contribute to the successful conclusion of the UNFCCC negotiations on a post-Kyoto global climate change framework? What steps will the Commission take before Copenhagen to engage with all the major players in these negotiations and to ensure the continued unity, coherence and consistency of the EU's common negotiating position even in times of economic crisis?
- **Financing of climate change activities in the EU:** What will the Commission undertake to ensure secure adequate financing for ambitious mitigation policies, development and deployment of clean technologies, and adaptation to climate change within the EU in the next Financial Perspective?
- **International financial architecture of the climate regime and financial assistance to developing countries for mitigation and adaptation measures:** Does the Commission have confidence that Member States will live up to their commitment under the revised ETS Directive to use part of the proceeds from the auctioning of EU emission allowances to meet their financial commitments under the UNFCCC, which are likely to be further extended as part of any Copenhagen agreement? Is the Commission convinced by the ECOFIN Council's position that the use of these revenues is a matter of exclusive Member State competence?
- **Deforestation:** How does the Commission propose to address emissions and removals associated with land use change and forestry in the context of the ETS?
- **Energy efficiency:** The Commission is committed to updating the EU Energy Efficiency Action Plan in order to allow the European Council to adopt a new Energy Action Plan for 2010-2014 at the spring summit in 2010. The existing Action Plan has been implemented only partially and much more slowly than initially envisaged. Has the Commission analyzed the reasons for these deficiencies and will it take the necessary measures, also in terms of the allocation of adequate human resources to the units of its services in charge of preparing and implementing energy efficiency measures?
- **Economic recovery and energy infrastructure investments:** How does the Commission intend to ensure that more investments in energy efficiency, renewable energy technologies, and measures to combat climate change are financed through Cohesion and Structural Funds and rural development programmes? What will the Commission's approach be towards implementing the European Economic Recovery Plan (COM(2008)800) and in particular its proposals to invest in strategic energy infrastructure projects?
- **Long-term energy policy:** The Commission has announced that it plans to submit a 'Roadmap towards a 2050 Energy Policy' which will set out actions to achieve a zero-carbon electricity supply for the EU by 2050. When will the preparatory process of this policy document be initiated and what measures will be taken to ensure that it takes fully into account the latest results of relevant research projects funded by the Commission under FP6 and FP7 as well the views of the widest possible range of stakeholders? What role will DG Environment play in the process?

Biodiversity

Despite some progress, the EU will fail to meet its target of halting the loss of biodiversity by 2010. A major effort is required by Member States and the Commission in this area. Discussions have now begun on a post-2010 vision for biodiversity. Major goals will be to ensure effective implementation of EU nature conservation legislation, to fully implement the 2006 Biodiversity Action Plan, and to complete the Natura 2000 network, particularly in marine areas.

- **Biodiversity Action Plan:** Following the Commission's mid-term assessment of progress in the implementation of the EU Biodiversity Action Plan (COM(2008)864), what will the Commission's approach be to accelerate progress towards the full implementation of the BAP? When will it be possible to meet the target initially set for 2010 and what will this take in terms of additional measures at EU and Member State level? In particular, what does the Commission intend to do to effectively integrate biodiversity conservation objectives into other EU policies? Will the forthcoming Financial Perspective include measures on how the EU budget can be reformed to this end?
- **Invasive alien species:** Following the 2008 Commission Communication "Towards an EU strategy on invasive species" (COM(2008)789), how does the Commission propose to take forward Community action to address the environmental and economic threats of invasive alien species? Does it intend to propose legislative measures in this area, in view of the urgency of the threat?
- **Natura 2000:** What additional efforts will the Commission take to ensure that sites in the EU's Natura 2000 network are effectively protected, managed and monitored and their conservation status improved, since the large number of infringement proceedings in this area demonstrates that many Natura 2000 sites are not effectively protected and managed in accordance with the requirements of the habitats Directive?
- **Funding:** A significant amount of EU funds are purportedly used to support conservation of biodiversity. However, the amount of Community funding used for nature conservation, how effective it is, and whether it is sufficient to support the management and restoration of the Natura 2000 network is unclear. In the context of the ongoing debate on the EU Budget Review and the subsequent preparation of the next Financial Perspective, what measures does the Commission envisage to generate more funding for biodiversity conservation including Natura 2000 and to ensure that existing financial instruments effectively contribute to nature conservation objectives?
- **Impact of climate change on biodiversity:** How does the Commission propose to address this impact which is expected to be significant and better integrate the protection of biodiversity and ecosystems and climate change mitigation and adaptation objectives?
- **Biodiversity impacts of the Trans-European Transport Network:** In its review of the TEN-T guidelines to be completed by 2010, will the Commission ensure that the cumulative effects of the TEN-T network on Natura 2000 sites and ecosystem functions, especially on the connectivity between protected areas, is given the highest priority? How does the Commission intend to involve Parliament in this review process?

Marine Environment and Fisheries

A new legislative framework for the protection of the marine environment has been established in 2008, but additional measures remain necessary to fully integrate environmental requirements into all Community policies and activities which directly or indirectly impact the quality of the marine environment and marine biological diversity, especially the Common Fisheries Policy (CFP), which has so far failed to protect and restore many fish stocks and is due for reform in 2012.

- **Baltic Sea Strategy:** Following the Commission's adoption of the EU Strategy for the Baltic Sea Region on 10 June 2009 (COM(2009)248), what steps will the Commission undertake to secure an effective implementation of the environmental objectives of the Baltic Sea Strategy in order to protect the natural environment of the Sea?

- **Reform of the CFP:** What role should DG Environment play in the preparation of this reform, in particular to ensure that CFP measures do not undermine the objectives of the Biodiversity Action Plan and in particular the protection of marine species and habitats pursuant to the habitats Directive?
- **Integrated maritime policy:** An integrated maritime policy was developed by the previous Commission. What measures will the new Commission take to ensure its effective implementation, including on such matters as sea surveillance, maritime spatial planning, and the European Marine Observation and Data Network (EMODNET)?

Chemicals

Although its introduction was considerably delayed compared to the timetable initially set out in the 6th EAP, the new chemicals regulatory framework adopted during the previous legislative term (REACH) represents significant progress but still falls short of the ambitious chemical safety objectives laid down in 2002. Full and effective implementation of REACH at Community and Member State level will be crucial in the years to come. At the same time, MEPs may wish to be vigilant to ensure that the new procedures and instruments resulting from REACH do not in practice lead to a reduction of the existing level of protection of health and the environment for some hazardous substances which were banned or restricted prior to the introduction of the REACH regulatory framework through such legislation as the ELV and RoHS Directives.

- **Substances of very high concern:** One of the key objectives of the REACH Regulation is the substitution of substances of very high concern (SVHC). The current candidate list only includes a small percentage of existing SVHC and thus undermines the substitution objective and prioritisation process under REACH. What action does the Commission propose to undertake to ensure that the relevant provisions of REACH apply to all SVHC or at a minimum to those that can lead to exposure of workers or consumers or releases to the environment?
- **Impact of REACH on existing bans and restrictions:** Does the Commission not expect that existing sector-specific material bans, such as the ban on heavy metals under the ELV Directive, may come under pressure in the context of the general framework for substance registration, evaluation, authorisation and restriction provided under the REACH Regulation? Does it consider a review of such bans necessary or does it, on the contrary, believe that REACH should not in any event lead to a rollback of the *acquis* in the field of the restriction of hazardous chemicals?

Water

Despite the fact that EU water legislation has been renewed thoroughly since 2000, the EU and its Member States have still a long way to go to meet the general objectives relating to clean water and sustainable use of water resources.

- **Water framework Directive (WFD):** In view of the slow progress in the implementation of the WFD, does the Commission consider it responsible to simply wait for 2015 before considering the need for further action, or should an initial review of the Directive be carried out during the period 2009-2014?
- **Derogations under the WFD:** Article 4(7) of the WFD states that under certain conditions, Member States will not be in breach of the WFD even when they fail to achieve good ecological status or to prevent deterioration of water status. What action will the Commission undertake against those Member States which have not, or not properly, transposed Article 4(7) of the WFD and are yet planning new infrastructure developments?

- **Nitrates:** Although nitrate concentrations have decreased slightly in some river basins, the effectiveness of the measures to reduce water pollution by the agricultural sector remains limited so far. What action will the Commission undertake to ensure fuller implementation of the nitrates Directive and other existing water legislation and also to review other policies, such as the Common Agricultural Policy, which continue to contribute to excessive use of fertilizers in agriculture?

Waste Management and Prevention and Resource Use

Major challenges in the waste policy field will be the effective implementation of the new waste framework Directive and the Directives on specific kinds of waste imposing mandatory recovery and recycling targets as well as preventive restrictions on the presence of hazardous substances in consumer products. Meeting these targets may prove particularly difficult for certain Member States given their current national approaches to waste prevention and recycling. So far, EU waste legislation has proved insufficient to curb waste production and breaking the link between economic growth and resource consumption. Despite the mandate contained in the 6EAP, the TS on sustainable use of natural resources adopted in 2005 refrained from establishing any quantitative targets in this field. During the previous legislative term, plans for new legislation on specific waste streams have effectively been abandoned against the advice of the European Parliament.

- **Waste framework Directive:** How does the Commission intend to make use of its extensive implementing powers under this new Directive?
- **Natural resource use:** What measures does the Commission intend to propose, pursuant to the TS on sustainable use of natural resources, to ensure that the EU's use of renewable resources remains below the threshold of overexploitation and that the negative environmental impacts associated with overall resource use are effectively reduced?
- **Ship dismantling:** Following the Commission Communication on an "EU strategy for better ship dismantling" (COM(2008)767), how does the Commission propose to ensure the ban on the export of hazardous waste from the EU to non-OECD countries as far as ships for scrapping are concerned?

Air Pollution and Transport

The measures set out in the new air quality framework Directive to improve ambient air quality and urban environmental quality are far from sufficient to achieve the health and environment protection objectives of the 6th EAP. Further measures will be required to address these challenges during the forthcoming legislative term.

- **Implementation of the new air quality Directive** will be a challenge given the difficulties many Member States had in meeting the limit value for PM10 under the previous Directive. What approaches have been received from Member States requesting derogations from the Directive requirements and what response has the Commission made to these?
- **Future of EU transport policy:** Following the publication on 17 June 2009 of the Commission's Communication on the future of EU transport policy (COM(2009)279), which concrete steps will the Commission undertake to fundamentally tackle the environmental challenges that lie ahead and to make the shift towards a low-carbon economy? What concrete measures will be taken to reduce transport emissions and internalise the external costs of transport?

Environmental Action Programmes

Mid-term reviews of the 6th Environmental Action Programme (EAP) carried out by the Commission itself and by the EP have shown that implementation of this Programme, which runs until 2012, is behind schedule and that many of its objectives are unlikely to be achieved before this date. According to the 6th EAP the Commission is expected to publish its final assessment of the Programme and proposals for its successor in 2011, so that a new EAP can be adopted in 2012.

- How will the successor to the 6th EAP relate to the SDS and the revised Lisbon Strategy?
- Does the Commission consider the approach of the 6th EAP with its numerous Thematic Strategies has been effective?
- Does the Commission support the EP's call for an independent review of the implementation of the 6th EAP?
- Does the Commission intend to follow the same approach in its proposals for the 7th EAP or rather propose a more streamlined and focused EAP with clear targets and timetables, rather than deferring the setting of targets and timetables to subsequent processes?

Sustainable Development Strategy

In December 2009 the European Council will undertake its second review of the implementation of the EU Sustainable Development Strategy (SDS) and decide on a roadmap on priority actions, based on a Commission progress report. By 2011, the European Council is also expected to decide when the next comprehensive review of the SDS should be launched.

- The SDS mandates the Commission "to elaborate a concrete and realistic vision of the EU on its way to sustainable development over the next 50 years"; however no work seems to have been undertaken pursuant to this mandate as yet. What will this Commission undertake to elaborate this vision and communicate it effectively to EU citizens?
- In light of the upcoming comprehensive review of the SDS in 2011, how would the Commission ensure that sustainable development is afforded a higher priority and that the SDS is given the same importance and high profile in EU future EU policy-making and communication as the Lisbon Strategy?
- What are the organisational changes needed within the Commission to ensure that the overarching objective of sustainable development is better reflected in EU policies and activities and the principle of integrating environmental protection requirements in the definition and implementation of all EU policies more effectively implemented?
- How does the Commissioners' College propose to establish stronger synergies between sectoral policies and to improve coherence between different policy instruments and measures so that all future policy proposals better reflect environmental considerations, since several evaluations by independent experts have shown that this is not yet achieved by the use of the current impact assessment procedure?

Lisbon Strategy

The next cycle of the Lisbon Strategy for growth and jobs will be launched at the spring European Council in 2010. Discussions on how to reinforce and reform this strategy raise the issue of its relationship with the SDS and the continued parallel existence of these two strategies.

- How does the Commission propose to effectively promote environment considerations within the framework of the Lisbon strategy?

- What will the Commission do to ensure that greater account is taken of the environment in the list of 14 indicators for the assessment of progress on the Lisbon strategy?
- How will the Commission ensure environment maintains high priority notwithstanding the current economic and financial crisis?
- As the Commission's 2010 annual strategy notes that better regulation will "remain the hallmark of the Commission's work", will the forthcoming review of the implementation of the Action Programme to reduce administrative burdens and progress towards the target of reducing them by 25% by 2012 lead to new proposals for simplification or deregulation in the field of environmental policy?
- Since sustainable development is presented as the overarching objective of the EU, should the economic and social objectives of the Lisbon Strategy be revised to take fully into account the objectives and constraints of the SDS or should both strategies be merged?

Implementation and Enforcement of Environmental Law

Despite some improvements, Member States' record of implementing EU environmental legislation remains poor and ensuring the full implementation of EU environmental legislation by Member States is a major challenge for the future. Environmental infringement procedures continue to account for approximately one third of all open cases for non-communication, non-conformity or bad application of EU law in the EU-27. While all policy documents on better regulation stress the need to ensure proper implementation of existing law, the Commission's monitoring and enforcement efforts still suffer from the lack of a coherent strategy and resources sufficient to respond adequately to the concerns and expectations of citizens. Proposals to strengthen enforcement at the national level through improved access to justice have yet to be adopted by the Council.

- How will the Commission work with Member States to ensure more effective implementation of legislation, in particular those where significant problems have been experienced in the past, such as the birds and habitats Directives and Community waste legislation?
- How will the Commission ensure that complaints from citizens and NGOs about non-compliance by Member States with their obligations under EC environmental law are taken more seriously and lead to effective enforcement action against offending Member States?
- How does the Commission intend to cooperate with Parliament to overcome the Council's resistance to the adoption of Community legislation to improve access to environmental justice in the Member States?
- How does the Commission ensure that Community funds are only spent for projects which are in full compliance with EU environmental law? What control mechanisms does the Commission apply to check full compliance? Is the Commission aware that EU funds are going to major projects which would violate Community water legislation? What action does the Commission intend to undertake to ensure that expenditure under the Structural and Cohesion Funds complies with the legal requirements of the WFD?

EU Budget

The reform of the EU budget and the related reforms of the CAP and cohesion policy will also be high on the agenda in the coming years. The outgoing Commission will conclude an interim budget review, which will feed into the new Commission's proposals for the next Financial Perspective, to be adopted before 2014.

- How will the next Financial Perspective better reflect the objectives laid down in the SDS? Will the Environment portfolio seek to obtain a more substantial share of the budget for its priorities?

- How should future EU budget resources be allocated among the various priorities of the EU? In view of the growing importance of climate change as a key policy of the Union, should there be more visible and significant budget allocations for this purpose?
- How will the Commission ensure that Community funds are only spent on projects in full compliance with EU environmental law?

3.3 Legislative ideas and policy suggestions

During its 2004-2009 term the EP adopted a number of non-legislative resolutions/reports which, together with the missing elements in legislation discussed in section 2 of this Welcome Package, may serve as a possible basis for legislative ideas that MEPs may wish to take up during the new term. The following list of issues that may require legislative and policy attention has been drawn up based on adopted EP resolutions.

Nature Conservation and Biodiversity

- The EP resolution on [halting the loss of biodiversity by 2010](#) (2008/2074(INI)) recognises the importance of completing the Natura 2000 network on land and at sea and of effective management and adequate financing of the network. It calls for the further integration of biodiversity and ecosystem service considerations into the CAP, the CFP, land use planning and the 2008-2009 budget review. It urges the development of a comprehensive EU response to the threat posed by the introduction of invasive alien species. The resolution also calls for measures to regulate deep sea bottom trawling and to prevent or minimise negative impacts from trade in commodities such as wood, palm oil and soybean which drive tropical deforestation.
- The EP resolution on [wilderness in Europe](#) (2008/2210(INI)) calls for improved protection and financing for identified wilderness areas in Europe. While recognising the important framework for nature protection provided by the birds and habitats Directives, the resolution calls on the Commission to develop a complementary EU wilderness strategy based on an ecosystem approach which identifies threatened species and biotopes and sets Community-wide priorities.

Forestry

- The EP resolution on [addressing the challenges of deforestation and forest degradation to tackle climate change and biodiversity loss](#) stresses the need for more coherence of forest conservation and sustainable management policies with other EU policies; the need for a final decision regarding inclusion of forest credits in the ETS; the need to deal with forest degradation at equal importance with the deforestation, and calls on the Commission to present proposals for Community wide sustainability requirements for all timber and timber products sourced from forests.

Climate Change

- The EP resolution on the [EU's future integrated policy on climate change](#) (2008/2105 (INI)), which is based on the final report of the Parliament's Temporary Committee on Climate Change, proposes that the EU and other industrialised countries set a collective target of reducing GHG emissions by 25 - 40% by 2020 and by at least 80% by 2050 relative to 1990 levels. To finance future domestic climate policies, the resolution calls for the establishment of a European Climate Fund, financed by part of the revenues from ETS auctioning and/or corresponding funds in Member States. The resolution also suggested that the highest priority in the next EU multiannual financial framework be on climate change and measures to combat it.

- An EP resolution on an [EU strategy for a comprehensive climate change agreement in Copenhagen and the adequate provision of financing for climate change policy](#) stresses that a significant increase in financial resources will be needed to support developing countries in their mitigation actions. The resolution also emphasises the opportunity to use the fight against climate change as a “green new deal”, boosting economic growth through the development of new technologies and creation of jobs.

Energy

- The EP resolution on the Commission’s [action plan for energy efficiency](#) (2007/2106(INI)) criticises the inadequate implementation of energy efficiency legislation by Member States, and calls for renewed action in this regard, in particular to ensure the target of improving energy efficiency by over 20% by 2020 is met. Among its recommendations, which include proposals for the transport and building sector, the report urges the Commission to set a timetable for withdrawing all least-energy efficient items of equipment, appliances and energy-using products from the market.

Water Scarcity and Droughts

- The EP resolution on [addressing the challenge of water scarcity and droughts in the European Union](#) (2008/2074(INI)) stresses that the specificity of the water scarcity and droughts issue requires coordinated action at all government levels (including the EU level). It calls on regional and local authorities to use the Structural Funds to invest in infrastructure and technology in particular to address the challenge of water efficiency in the industrial and agricultural sectors as well as on the part of domestic consumers. The resolution points in particular to the fact that biofuel production will increase demand for water and therefore stresses the need to closely monitor the impact of the use of biofuels and to regularly review EU and national biofuel policies.

Marine Environment

- The EP resolution on an [integrated maritime policy for the EU](#) (2008/2009(INI)) criticises the Commission’s Action Plan for its limited number of practical measures and for only addressing the challenge of climate change through non-binding measures. The resolution calls for maritime policy to make a significant contribution to achieving the EU’s climate change and energy targets, and in particular for shipping to be included in the EU ETS; for increased research efforts to exploit the sea as a source of renewable energy; for more ambitious efforts to combat shipping pollution; for a proposal for an EU Directive on the quality of marine fuels; and for an Action Plan to reduce land-based pollution of the sea.

Environment and Health

- The EP resolution on the [mid-term review of the European Environment and Health Action Plan 2004-2010](#) (2007/2252(INI)) criticises the action plan since it is designed solely to accompany existing EU policies, is not based upon a preventive policy intended to reduce illnesses linked to environmental factors, and pursues no clear, quantified objectives. The EP in particular regrets that the Commission has not provided sufficient funding for human biological monitoring in 2008. The EP calls upon the Commission to come forward as soon as possible with concrete measures on indoor air quality, is concerned about the lack of specific legal provisions to ensure the safety of consumer products containing nanoparticles and about the health risks posed by emissions from mobile-telephony devices.

Waste

- The EP resolution on an [EU strategy for better ship dismantling](#) “calls for concrete regulatory action at EU level that moves beyond the regrettably weak remedies of the IMO”. The resolution in particular calls on the Commission to propose concrete measures, such as labelling schemes for safe and clean recycling facilities, to promote the transfer of know-how and technology in order to help dismantling sites in South Asia comply with international safety and environmental standards.

Natural Disasters

- The EP resolution on [natural disasters](#) (fires, droughts and floods) - environmental aspects (2005/2192(INI)) calls on the Commission to put forward a directive on preventing and managing fires.

Market-based Instruments

- The EP resolution on the Commission's [Green Paper on market-based instruments for environment and related policy purposes](#) (MBIs) (2007/2203(INI)) calls on the Commission to develop a “clear strategy” for the use of MBIs including environmental taxation, emissions trading, technology and trade policies; and to undertake a review of the effectiveness of existing environmental regulatory instruments to assess where MBIs may be more appropriate tools.

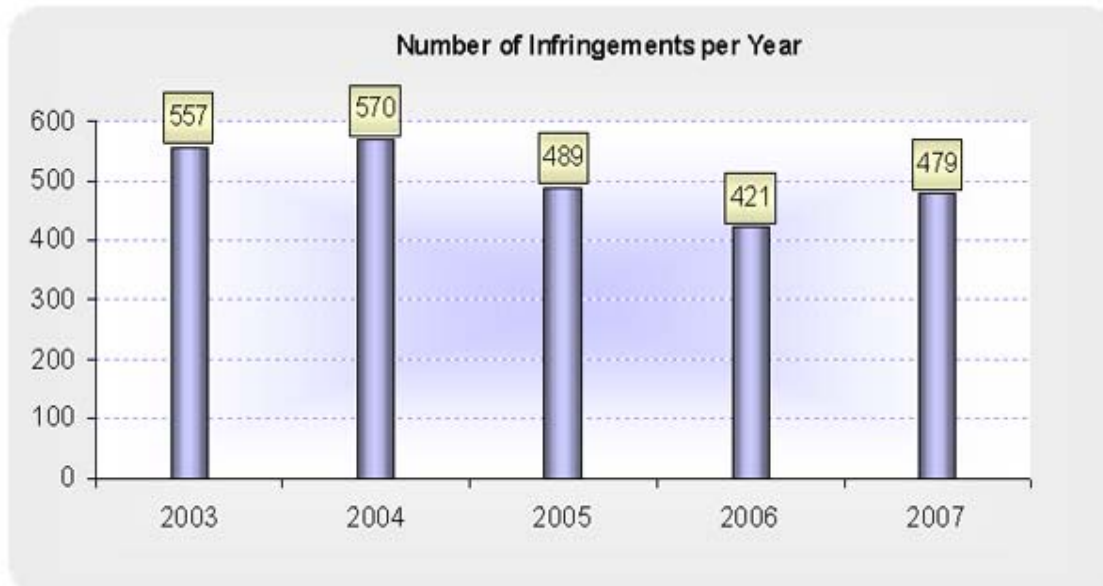
Implementation and Enforcement

- The EP resolution on the [application of Community law](#) (INI(2006)2271) calls for the Commission to be more proactive in monitoring national developments, to devote more human resources to enforcement, and to be more firm in its application of infringement procedures. The resolution also proposes that Parliamentary Committees be more involved in monitoring the application of Community law in their respective fields of competence.
- The EP resolution on the [review of Recommendation 2001/331/EC providing for minimum criteria for environmental inspections in the Member States](#) (B6-0580/2008) calls on the Commission to come forward with a proposal for a directive on environmental inspection, rather than address the issue through the insertion of specific inspection requirements in sectoral legislation as proposed by the outgoing Commission.

4 IMPLEMENTATION REVIEW

The effectiveness of EU environmental policy is largely determined by its implementation at national, regional and local levels. Despite some improvements, Member States' record of implementing EU environmental legislation remains poor and ensuring the full implementation of EU environmental legislation by Member States remains a major challenge. Environmental infringement procedures still account for approximately one third of all open cases for non-communication, non-conformity or bad application of EU law in the EU-27. At the end of 2007, DG Environment had 479 open infringement files under investigation (see Figure 1).

Figure 1: Number of infringement files per year dealt with by DG Environment



Source: DG Environment, European Commission, <http://ec.europa.eu/environment/legal/law/index.htm>

In light of these implementation challenges, in November 2008 the Commission published a Communication (COM(2008)773) in which it sets out its strategy to promote better implementation of environmental law and deal with infringements. Through this Communication, which fits within a wider strategy for improving implementation of EU law (COM(2007)502), the Commission intends to cooperate closely with Member States to help them implement EU environmental legislation and “solve problems highlighted by citizens and NGOs” through such measures as guidance documents, regular dialogue and support activities. Where the preventative approach has failed, the Commission will focus its enforcement activities in a way which it describes as more “strategic”, by giving priority to addressing those breaches of EU environmental law that it considers to be “fundamental” or “systemic”. The Communication also stresses the importance of enforcement through national courts in the Member States.

This chapter focuses on 10 items of legislation which have been selected as amongst the most sensitive and difficult areas in EU environmental policy. The EP's long-standing commitment to better regulation and implementation, more effective and clearer environmental legislation and improved protection of EU citizens' rights may guide further action in the new legislative period.

4.1 Water Framework Directive

4.1.1 Introduction and summary of binding dates

Directive 2000/60/EC establishing a framework for Community action in the field of water policy (referred to as the water framework Directive - WFD), adopted in December 2000, established a framework for the protection of European inland surface waters, transitional waters, coastal waters and groundwater. The environmental objective of the WFD is to achieve "good status" for all groundwater and surface water by 2015.

The key requirements of the WFD include management of water at the river basin level, rather than according to administrative, geographical or political boundaries. River Basin Management Plans (RBMPs) and programmes of measures to achieve good water status must be drawn up for each river basin district. The public must be informed and consulted in the process of drafting, finalising and implementing the RBMPs. The WFD also requires a combined approach for pollution control, whereby water quality objectives and emission limit values must be established, with the stricter approach applying in any given situation. Monitoring of all waters is required in terms of quantity and quality. Last but not least, the WFD requires water pricing and cost recovery for the provision of water services, based on an economic analysis and in accordance with the "polluter pays" principle. The WFD sets out clear deadlines for each of its individual requirements. The key milestones of this timetable are listed in Table 1.

Table 1: Key milestones in WFD timetable

Year	Milestone
2003	Legal transposition into national law (Article 24); Identification of river basin districts and competent authorities (Article 3)
2004	Characterisation of river basin district: pressures, impacts and economic analysis of water uses (Article 5)
2006	Establishment of monitoring programme (Article 8)
2008	Draft River Basin Management Plan (RBMP) for public consultation (Article 14)
2009	Adoption of final RBMP including programme of measures (Article 13)
2010	Introduction of water pricing policies (Article 9)
2012	Programme of measures made operational (Article 11)
2015	Achievement of "good" status for surface and groundwater (Article 4)

4.1.2 Overview of transposition and application in Member States⁶⁶

Legal transposition into national law (Article 24): All Member States have transposed the WFD into national law, though not all of them by the required deadline. The Commission thus launched 11 infringement cases and the European Court of Justice (ECJ) ruled against five Member States for not communicating transposition measures of the WFD before the end of the prescribed period. In addition, legal transposition of the WFD into national law is in many cases considered poor and inadequate.

Identification of river basin districts and competent authorities (Article 3): Most Member States reported their administrative arrangements to the Commission on time. However the Commission had to launch nine infringement cases for delayed reporting; all except one have been successfully resolved.

Environmental and economic analysis (Article 5): Most Member States submitted their Article 5 reports on the characterisation of river basin districts in time. Infringement procedures were pursued against two Member States which only submitted first (incomplete) reports with considerable delay. Both cases are now closed. In terms of the quality of the reports, the Commission identified data gaps in all cases which need to be filled in order to provide a solid basis for the 2009 RBMPs. Some reports clearly did not meet the minimum WFD requirements.

Monitoring programmes (Article 8): Most Member States reported on the establishment of monitoring programmes in time. The Commission has launched infringement procedures against two Member States that have failed to do so.

Draft RBMPs for public consultation (Article 14): As of 30 April 2009, 17 Member States have published draft RBMPs and three additional Member States have published part of their draft plans. Seven Member States have not published any draft plans for public consultation so far.

⁶⁶ European Commission (2007), Communication from the Commission to the European Parliament and the Council: Towards sustainable water management in the European Union - First stage in the implementation of the Water Framework Directive 2000/60/EC, (COM(2007)128). European Commission (2007), Accompanying Document to the "Communication from the Commission to the European Parliament and the Council: Towards sustainable water management in the European Union - First stage in the implementation of the Water Framework Directive 2000/60/EC, (COM(2007)128)", (SEC(2007)362).

Table 2: Member State compliance with WFD reporting obligations

Member State	Legal transposition (Art. 24)	Administrative arrangements (Art. 3)	Environmental & economic analysis (Art. 5)	Monitoring programmes (Art. 8)	Draft RBMPs (Art. 14)
Austria	√	√	√	√	√
Belgium	√	√	√	√	[√]
Bulgaria	√	√	√	√	√
Cyprus	√	√	√	√	X
Czech Republic	√	√	√	√	√
Germany	√	√	√	√	√
Denmark	√	√	√	√	X
Estonia	√	√	√	√	√
Greece	√	√	√	X	X
Spain	√	[√]	√	√	[√]
Finland	√	√	√	√	√
France	√	√	√	√	√
Italy	√	√	√	√	X
Ireland	√	√	√	√	√
Hungary	√	√	√	√	√
Lithuania	√	√	√	√	[√]
Luxembourg	√	√	√	√	√
Latvia	√	√	√	√	√
Malta	√	√	√	[√]	X
Netherlands	√	√	√	√	√
Poland	√	√	√	√	√
Portugal	√	√	√	√	X
Romania	√	√	√	√	√
Slovenia	√	√	√	√	X
Slovak Republic	√	√	√	√	√
Sweden	√	√	√	√	√
United Kingdom	√	√	√	√	√

Note: This table only informs on meeting reporting obligations. It does not make any judgement on the quality of reporting.

Source: EC WFD scoreboard http://ec.europa.eu/environment/water/water-framework/transp_rep/index_en.htm, except for information on the publication of draft RBMPs which is available on http://ec.europa.eu/environment/water/participation/map_mc/map.htm.

4.1.3 Identified problem areas

The two implementation reports published by the Commission to date on the WFD highlight the following main problem areas.

Quality of legal transposition

Legal transposition of the WFD into national law is in many cases poor and inadequate. On the basis of a preliminary assessment, the Commission identified no less than 19 Member States with serious shortcomings, mainly as regards Article 4 (environmental objectives), Article 9 (cost recovery of water services) and Article 14 (public participation).

Administrative set-up

Regarding the administrative set-up for water management at river basin district level, it is often unclear how the coordination arrangements between different authorities within the Member States are functioning. In the case of some international river basin districts, the process of putting the necessary agreements and coordination arrangements in place is still ongoing or there is clear scope for improving the international coordination arrangements and their implementation. In view of the RBMP, further steps have to be set in international cooperation.

Integration with other policies

Considerable progress has already been made in integrating water policy into other EU policy areas, in particular agriculture, energy, transport, research, external relations and regional development. The Commission is committed to exploring further ways of strengthening the integration of water-related considerations into other EU policies and legislation. Also from the perspective of MEPs, integration with other major policies of the EU is a key issue to achieve the objectives of the WFD. This is related to the fact that conflicts are often perceived between the WFD and targets of other policies such as the renewable energy Directive.

Economic analysis of water uses

The economic analysis of water uses is in many Member States incomplete. In particular, this concerns the definition of water services and the information for the calculation of cost recovery of water services, particularly information on environmental and resource costs and information on sectors to be affected by cost recovery. Parliamentary questions have been put to the Commission concerning the basis for considering certain water uses, such as hydropower, as water services, which is relevant to the issue of cost recovery.

Assessment of ecological status

The Commission's assessment of monitoring programmes⁶⁷ shows that there are still many river basin districts where the necessary biological assessment methods for determining the ecological status of water bodies are not yet in place. This is particularly true for Member States that joined the EU in 2004 and 2007. In addition, little information is provided on the levels of confidence and precision of monitoring and in particular of the assessment methods for ecological status. Thus, it is difficult to assess whether monitoring will deliver a sufficient level of confidence and precision for a comprehensive overview of water body status and for informing decision-making on the WFD programmes of measures.

In a similar context, MEPs also expressed concerns about the commitment of sufficient resources by the Member States for the so-called WFD inter-calibration exercise, which aims at the adoption of comparable national standards and consistent methods EU-wide for the definition of good ecological status.

⁶⁷ European Commission, (2009), Report from the Commission to the Parliament and the Council in accordance with article 18.3 of the Water Framework Directive 2000/60/EC on programmes for monitoring of water status, (COM(2009)156). European Commission (2009), Accompanying the "Report from the Commission to the Parliament and the Council in accordance with article 18.3 of the Water Framework Directive 2000/60/EC on programmes for monitoring of water status, (COM(2009)156)", (SEC(2009)415).

4.2 Directive on Waste Electrical and Electronic Equipment (WEEE)

4.2.1 Introduction and summary of binding dates

The WEEE Directive (2002/96/EC) is the most recent of the waste stream-based “recycling Directives”. The Directive obliges Member States to encourage the production of electrical and electronic equipment (EEE) which takes into account and facilitates dismantling and recovery, in particular the reuse and recycling of WEEE, their components and materials.

Most importantly, Member States shall adopt appropriate measures in order to minimise the disposal of WEEE as unsorted municipal waste and achieve a high level of separate collection of WEEE. The Directive requires Member States to create systems allowing final holders and distributors to return WEEE free of charge. The WEEE Directive prescribes four kilograms on average per inhabitant per year of WEEE from private households as a minimum rate of separate collection.

Most importantly, the Directive fixes specific recycling and recovery targets (which had to be reached by 31 December 2006), which vary among the specific categories of equipment (Article 7) - see Table 3.

Table 3: Recycling and recovery targets set in the WEEE Directive

Electronic waste stream	Recycling	Recovery
Large Household Appliances	75%	80%
Automatic Dispensers	75%	80%
IT and telecommunications equipment	65%	75%
Consumer Equipment	65%	75%
Small household appliances	70%	50%
Lighting Equipment	70%	50%
Electrical and Electronic tools (with the exception of large-scale stationary industrial tools)	70%	50%
Toys, leisure and sports equipment	70%	50%
Monitoring and control instruments	70%	50%
Gas discharge lamps	80%	

Table 4: Key deadlines in the WEEE Directive

Year	Deadlines
13/08/2004	Transposition of the Directive into national law
13/08/2005	Installation of take-back systems for WEEE . Producers must provide at least for the financing of the collection , treatment, recovery and environmentally sound disposal of WEEE from private households deposited at collection facilities. Financing is to be covered by producers in the case of waste from holders other than private households and placed on the market after that date.
31/12/2006	A rate of separate collection of at least 4 kg on average per inhabitant per year of WEEE from private households must be achieved. The recovery and recycling rates listed in Table 3 must be achieved.
31/12/2008	The Directive foresees that the EP and the Council, acting on a proposal from the Commission, shall establish new targets for recovery and re-use/recycling, including for the re-use of whole appliances as appropriate, and for the products falling under category 8 of Annex IA. On 3 December 2008, the Commission submitted a proposal to review the WEEE Directive (COM(2008)810).

4.2.2 Overview of transposition and application in Member States

The majority of Member States seem to have been striving to implement the WEEE Directive as correctly as possible. The ECJ has so far only condemned Finland and the United Kingdom for not having transposed the RoHS Directive into national law properly or in time. Furthermore, the Commission launched an infringement procedure against Estonia, Latvia and Lithuania in 2007 for not having properly transposed the WEEE Directive into their national law. It has not, however, so far brought these cases before the ECJ.

The following major developments could be identified linked to the implementation of the WEEE Directive:

Improved rate of WEEE collection

When assessing the progress of WEEE collection and recycling, one has to bear in mind that there are two groups of countries: those countries that already had a collection and recycling system for WEEE prior to the Directive, and those that did not. The objective of the Directive is to improve the rate of WEEE gathering and recycling/recovery. An improved collection rate has already been achieved in certain Member States, particularly in the countries which had to set up collection systems of WEEE. Yet, a study for the European Commission by a United Nations University-led consortium (2007) suggested that only about 25% of Europe's medium-sized household appliances and 40% of larger appliances were collected, leaving "substantial room for improvement"⁶⁸. The study notes large differences in collection rates between EU Member States.

⁶⁸ United Nations University, (2007), 2008 review of Directive 2002/96, http://ec.europa.eu/environment/waste/weee/pdf/final_rep_unu.pdf

Collection System (Article 5) and WEEE Treatment

The WEEE Directive leaves a basic choice to producers of EEE to adhere to a collective collection/treatment scheme for WEEE or to organise collection and treatment individually in compliance with the requirements of the Directive. In general, collective collection/treatment systems are more common than individual systems, however the frequency of common/individual systems differs according to whether the EEE is sold to private households or to businesses, as the WEEE Directive provides different requirements for Business-to-Business (B2B) WEEE and Business-to-Consumer (B2C) WEEE.

In general, collective collection/treatment systems have been set up for the collection of WEEE from households. Individual solutions are the absolute exception for WEEE collected from households; such individual systems are, however, more common and feasible for EEE that is sold to business⁶⁹. In general, the WEEE Directive leaves significant freedom to Member States regarding the concrete attributes and schemes of the WEEE collection and treatment systems. Thus, there is much divergence between the approaches of the Member States - an issue which has also been discussed in the EP.

4.2.3 Identified problem areas

Definition of scope

The definition of scope in the WEEE Directive has been subject to uncertainties; in particular the exemption from the WEEE Directive of EEE products which are part of other products has led to uncertainties regarding certain products (such as car radios, electric equipment in motor caravans, heating equipment and air conditioners). Another problem is that some Member States believe that the list in Annex IB of the WEEE Directive which gives concrete examples of the different categories of EEE is a complete and exhaustive list of products covered by the Directive, thus EEE not figuring explicitly in the list of Annex IB is not treated as falling under the WEEE Directive. However, the intention of the Directive and Annex IB is clearly different.

Furthermore the scope of the WEEE Directive, which is slightly different from the scope of the RoHS Directive (see section 4.3) that lays down substance bans for EEE, has been the cause of implementation uncertainties.

In December 2008, the Commission issued a proposal for a revision of the WEEE Directive which is intended to clarify *inter alia* the scope and definitions of the Directive (see section 2.2.4).

Best Available Technologies

The WEEE Directive foresees that Best Available Techniques (BAT) shall be used in the field of recycling/recovery of WEEE. Given that WEEE recycling is currently not subject to the scheme of the IPPC Directive, there are doubt regarding how to identify what BAT are for WEEE treatment. The expected review of the IPPC Directive might bring WEEE treatment plants into its scope; in this case, BAT for WEEE plants would need to be discussed at European level, i.e. as part of the Best Available Techniques Reference Document (BREF) development process under the IPPC Directive (see section 2.3.2).

⁶⁹ For further information, see overview of the WEEE legislation completed by Perchards, (2007), <http://www.enviro.gov.sk/servlets/files/22184>

Attribution of financial share

As the WEEE Directive is based on the principle of producer responsibility for WEEE, i.e. the responsibility of producers to take care of and finance the collection and treatment of the waste arising from the EEE that they produce and sell, the producers have to finance at least a certain part of the collection and treatment of WEEE.

One of the main problems in the financing field is the presumed loophole in enforcement concerning distance sellers⁷⁰, especially those outside the EU and those selling their products from one Member State to another. There are two possible problems. Internet sellers could be subject to double financial obligations for WEEE schemes on account of goods originally being placed on the market in one Member State, and subsequently sent to another. Therefore, an attribution system needs to be created to ensure such duplication is avoided. On the other hand, it sometimes proves difficult for national WEEE schemes to “get hold of” the distance sellers situated in other countries and involve them in national WEEE-related schemes⁷¹.

Registration

In a question to the Commission, the EP referred to the fact that Member States are required to draw up a register of producers. The producers and importers involved are therefore likely to be confronted with different registration procedures in various Member States, in some cases even at regional level, which could entail considerable administrative efforts.

4.3 Directive on the Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment (RoHS)

4.3.1 Introduction and summary of binding dates

The RoHS Directive (2002/95/EC) is a complementary Directive to the WEEE Directive. It sets requirements for the use of heavy metals and other hazardous substances in EEE. Most importantly it foresees the ban of certain materials which are, in turn, subject to certain exemptions or concentration limits to be adapted to scientific and technical progress.

Table 5: Key deadlines in the RoHS Directive

Year	Deadlines
13/08/2004	Transposition of Directive into national law
13/02/2005	Commission to review the measures provided for in the RoHS Directive to take into account, as necessary, new scientific evidence
01/07/2006	New EEE put on the market may not contain lead, mercury, cadmium, hexavalent chromium, polybrominated biphenyls (PBB) or polybrominated diphenyl ethers (PBDE). These requirements are subject to exemptions.

⁷⁰<http://www.electronicweekly.com/Articles/2006/06/16/38982/rohs-distance-selling-loophole-explained.htm> .

⁷¹ For information on this problem, see position of the American Chamber of Commerce to the EU, (2007), http://www.eucommittee.be/Pops/2007/ENV_responserevisionWEEEandROHS.pdf .

4.3.2 Overview of transposition and application in Member States

Status of implementation

In October 2007, the Commission sent a first warning letter to six Member States (Belgium, Denmark, Finland, Lithuania, Malta and Sweden) that had not correctly transposed the RoHS Directive⁷². Thus far, there has not been an application to the ECJ to condemn these countries for non-compliance.

Diminution of heavy metals

By virtue of the Directive's objective and main provisions, its implementation should lead to the phasing out or at least to a continuous diminution of the hazardous substances banned or limited by the RoHS Directive in the manufacturing of EEE⁷³. In addition to the substitution of avoided RoHS substances, there should be a decrease in human toxicity and ecotoxicity potential through the different environmental compartments (air, fresh water, terrestrial) due to the implementation of RoHS. Furthermore, there should be a decrease of emissions being disposed of in the environment emanating from waste RoHS substances.

4.3.3 Identified problem areas

Scope

One of the main sources of uncertainties linked to the implementation of the RoHS Directive is the definition of its own scope and its relationship to its sister Directive, the WEEE Directive. The relationship between the RoHS and the WEEE Directives has posed problems. The current RoHS Directive, when defining its own scope, often refers to provisions of the WEEE Directive. Thus the problems concerning scope already reported for the WEEE Directive (see above, for example the "fixed installation" exception) are often replicated for the RoHS Directive.

One additional problem of the RoHS Directive's scope is the fact that it excludes categories 8 and 9 of Annex I of the WEEE Directive, i.e. medical devices and monitoring/control instruments. This has led some producers to consider their EEE products which objectively fall under these categories but which could also be attributed to other categories of Annex I of the WEEE Directive as not falling under the RoHS Directive. This problem is being addressed in the current revision of the RoHS Directive (see section 2.2.5).

Comitology decision process for exemptions: rights of the EP⁷⁴

Article 5(1) of the RoHS Directive empowers the Commission, supported by a committee, to lay down and adapt the exemptions of the Directive to scientific and technical progress. This gives the Commission much power to define the real field of application and the actual impact of the Directive.

⁷² <http://www.rsjtechnical.com/NewsRoHStransposition.htm>

⁷³ For further information see: Arcadis Ecoloas & RPA (2009), *A study on RoHS and WEEE directive – 06/11925*, http://ec.europa.eu/enterprise/environment/reports_studies/studies/study_on_rohs_and_wEEE_directives_final_report.pdf

⁷⁴ In accordance with Article 202 of the Treaty establishing the European Community (EC), it is the task of the Commission to implement legislation at Community level. In practice, each legislative instrument specifies the scope of the implementing powers conferred on the Commission by the Council of the European Union. In this context, the Treaty provides for the Commission to be assisted by a committee, in line with the procedure known as "comitology". The committees are forums for discussion, consist of representatives from Member States and are chaired by the Commission. They enable the Commission to establish dialogue with national administrations before adopting implementing measures. The Commission ensures that measures reflect as far as possible the situation in each of the countries concerned. Relations between the Commission and the committees are based on models set out in a Council Decision (the "Comitology Decision"), which gives Parliament the right to monitor the implementation of legislative instruments adopted under the codecision procedure. Parliament can object to measures proposed by the Commission or, as the case may be, the Council if it considers them to be ultra vires.

Comitology procedures are currently regulated by the Council's Comitology Decision 1999/468/EC, amended by 2006/512/EC, which introduced the 'regulatory procedure with scrutiny' whereby the EP obtained a veto on the substance of certain implementing measures in addition to scrutiny. Directive 2008/35/EC amending Directive 2002/95/EC made clear that measures to adapt the annexes must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC. The EP can therefore comment on and object to the substance exemptions proposed.

Apart from this, the EP has already taken the Commission to the ECJ over adding an exemption for DecaBDE used in polymeric application⁷⁵. The ECJ annulled this Decision for not being in compliance with the requirements of Article 5(1)(b) of the Directive.

Coherence of exemptions of the RoHS Directive with other waste directives and environmental law

An important issue for better regulation and waste law coherence is the alignment and streamlining of the exemptions to the substance bans (lead, mercury, cadmium, hexavalent chromium) of the RoHS Directive and the ELV Directive. Both Directives include lists of exemptions to these substance bans which are regularly to take account of scientific and technical progress. However, until now, the scope and wording of the respective exemptions in both Directives are different. An alignment would increase the consistency and clarity of the Directives for the monitoring authorities as well as for industry, of course provided that the different qualities of the products in question are taken into account⁷⁶.

Another issue concerns the link between the RoHS Directive and the REACH Regulation. It has been suggested by many NGOs that there should be no gaps or inconsistencies between these pieces of legislation.

4.4 End-of-Life Vehicles (ELV) Directive

4.4.1 Introduction and summary of binding dates

The primary objective of the end-of-life vehicles (ELV) Directive (2000/53/EC) is to promote the collection and treatment of ELVs. Article 4 of the ELV Directive requires economic actors to reduce ELV waste by using resource-effective materials, eliminating hazardous substances from cars and incorporating increasing amounts of recyclates in vehicle design. Apart from this, the ELV Directive also bans certain materials used in the construction of cars or for spare parts.

Most importantly, the ELV Directive lays down requirements for the collection and treatment of ELVs. The two basic innovations of the ELV Directive are:

- A cost-free take back system for ELVs, to be run by producers and other economic actors (as of 1 January 2007 for all cars); and
- Recycling and recovery targets for ELV treatment.

The principle of producer responsibility is the core mechanism introduced in the Directive. Although the Directive is addressed to Member States, it is the producers or third parties acting on their behalf that are responsible for collection, treatment, recovery and environmental disposal.

⁷⁵ See cases C-14/06 and C-295/06.

⁷⁶ See the relevant Commission project carried out by Öko-Institut, (May 2009), http://rohs-elv.exemptions.oeko.info/fileadmin/user_upload/Consultation/Project_description.pdf

Table 6: Key deadlines in the ELV Directive

Year	Deadlines
21/04/2002	Transposition of the ELV Directive into national law
01/07/2002	Manufacturers become liable for costs of take-back of vehicles put on the market after 1 July 2002
01/07/2003	Ban on use of heavy metals takes effect
01/07/2007	Manufacturers become liable for costs of take-back of vehicles put on the market before 1 July 2002
01/01/2015	95% of ELVs are to be reused or recovered and 85% re-used or recycled

4.4.2 Overview of transposition and application in Member States

When assessing the implementation of the ELV Directive one has to be aware that a small number of countries have been able to implement the Directive relatively smoothly given that they already had collection and treatment systems in place before the entry into force of the ELV Directive. Others, however, had to create a new infrastructure for the collection and treatment of ELVs, including enforcement capacities.

Many Member States have experienced significant difficulties, delays and setbacks in implementing the Directive. Reflecting this, the Commission has taken some form of legal action against many Member States, in particular for late implementation⁷⁷.

4.4.3 Identified problem areas

Free take-back

In general, it seems that the central requirement for free take-back has indeed been implemented in most Member States. This is important given that last owners are in this way encouraged to deliver their cars for disposal. A 2007 report on the state of implementation of the ELV Directive commissioned by the EP⁷⁸ observed that certain administrative charges were being levied, and hence that take-back was not completely free as it ideally should be. It was further argued that transporting a vehicle to a disposal site could incur a significant cost for vehicles unable to be taken to the site under their own power. In only a few countries, it appears that such transport costs for disposal are also covered under free take-back; elsewhere this may remain a barrier to full implementation.

Density of disposal network

According to the report mentioned above, the density of the disposal network appears at this time to vary substantially from country to country. To some extent, this reflects different levels of ambition in different Member States, but also in some cases be a question of transition where implementation has been slow, and networks are still being built up and new sites licensed. The UK, for example, has specified that most people should be less than 20km from an authorised disposal site, and that transportation costs should be reimbursed to those beyond a specified distance threshold.

⁷⁷ The following Member States have been condemned for not transposing in time or non-compliance: Italy (Case C-394/05), Ireland (Case C-460/03), the UK (Case C-277/03), Finland (Case C-292/03) and France (Case C-292/03). Actions brought before the ECJ for non-compliance against France (Case C-64/09), Germany (Case C-181/05) and Austria (Case C-109/05) are still pending.

⁷⁸ Report produced by the Institute for European Environmental Policy (IEEP) and partners for the EP and can be downloaded at: http://www.europarl.europa.eu/comparl/envi/pdf/externalexpertise/end_of_life_vehicles.pdf

Comitology decision

Like the RoHS Directive, the ELV Directive empowers the Commission to lay down exemptions from the heavy metal bans through a comitology procedure and thereby gives the Commission, assisted by a committee, much power to shape the Directive's scope. As for the powers of the EP in influencing this process, the same considerations apply as for the RoHS Directive (see section 4.3). Most importantly this power has been increased by the reform of the comitology procedure by Decision 2006/512/EC.

Streamlining with other legislation

The ELV Directive restricts the use of certain heavy metals for the construction of cars and thereby follows a similar approach to the RoHS Directive. In the interest of coherence of European waste law, the exemptions to the substance bans laid down by the comitology procedure in the RoHS and the ELV Directives should be streamlined as appropriate (see Annexes to the RoHS and ELV Directives).

4.5 National Emission Ceilings Directive

4.5.1 Introduction and summary of binding dates

Directive 2001/81/EC on national emission ceilings for certain atmospheric pollutants (NEC Directive) is part of the follow-up to the Commission's Communication on a strategy to combat acidification (COM(1997)88). In June 1999, the Commission presented a proposal for a Directive setting national emission ceilings (NECs) for four air pollutants that cause acidification and the formation of ground-level ozone: sulphur dioxide (SO₂), nitrogen oxides (NO_x), volatile organic compounds (VOCs), and ammonia (NH₃) (COM(1999)125). Directive 2001/81/EC was adopted in July 2001 and entered into force on 27/11/2001.

The aim of the NEC Directive is to gradually improve protection both human health and the environment throughout the EU, through a stepwise reduction in the emissions of these air pollutants. Emission ceilings for 2010 have been set for all 27 Member States. By that year, Member States must limit their annual national emissions so that they do not exceed the emission ceilings laid down in Annex 1 of the NEC Directive, and they must also ensure that these emission ceilings are not exceeded in any year after 2010. Three additional interim environmental targets to be attained by 2010 compared to a 1990 baseline (Article 5) are:

- o 50% reduction in areas where critical loads⁷⁹ are exceeded;
- o Ground-level ozone concentrations above the critical level for human health to be reduced by two-thirds in all areas; and
- o Ground-level ozone concentrations above the critical level for crops and vegetation to be reduced by a third in all areas. Absolute air quality exposure limits for ozone not to be exceeded anywhere are also specified.

Apart from reporting on how the national programmes will meet emission ceilings, Member States' reporting obligations include the provision of emission inventories and projections for 2010 for SO₂, NO_x, VOCs and NH₃ on an annual basis.

Currently, as part of the implementation of the TS on Air Pollution, a revision of the NEC Directive is planned⁸⁰. The proposal is still under preparation and should set emission ceilings to be respected by 2020 for the four already regulated pollutants and also for primary emissions of PM_{2.5}. This revision builds on the evaluation and review of the National Programmes in 2002 and 2006.

⁷⁹ A critical load can be defined as 'A quantitative estimate of an exposure to one or more pollutants below which significant harmful effects on specified sensitive elements of the environment do not occur according to present knowledge', Nilsson, J. and Grennfelt P. (Eds) (1988) Critical loads for sulphur and nitrogen. UNECE/Nordic Council workshop report, Skokloster, Sweden.

⁸⁰ http://ec.europa.eu/environment/air/pollutants/rev_nec_dir.htm

Table 7: Key deadlines in the NEC Directive

Year	Deadlines
01/10/2002	Member States to draw up programmes for the progressive reduction of annual national emissions of the four pollutants, and report them to the Commission at the latest by December 2002
27/11/2002	Deadline for transposition in Member States
01/10/2006	National programmes to be updated and revised, submitted to the Commission, and made available to the public
2010	Member States must limit annual national emissions so that they do not exceed the emission ceilings laid down in Annex 1 of the NEC Directive and must ensure that these emission ceilings are not exceeded in any year after 2010

4.5.2 Overview of transposition and application in Member States⁸¹

In the emission projections presented in the national programmes and reported separately to the Commission under the NEC Directive in 2002, only four Member States were projected to comply with all of their NEC targets by 2010 without the need for further actions beyond those already planned (Finland, Greece, Sweden and the UK). With additional measures, a further three Member States were projected to achieve all of their NEC targets. By 2006, most Member States were projected to meet the emission ceiling for most pollutants. The most problematic pollutant remains NO_x, for which 11 Member States out of 24 were projected to miss the target. In some cases, projections were sufficiently close to the ceilings to render their attainment uncertain.

The comparison of the NEC national programmes further reinforced the conclusions of the EEA's initial assessment of the programmes⁸² with respect to a generally poor level of reporting and lack of consistency between Member States. A problem that was particularly highlighted was that the lack of consistency and limited availability of information made any quantitative analysis almost impossible. By 2006, without taking into account the quality of reporting, completeness of reporting against the requirements of the NECD was good, particularly in the areas of inventories and projections. Significant weaknesses concerned the timely submission of information and the provision of clear and comprehensible national programmes.

According to an in-depth review of measures set out in the 2006 national programme reports, measures are being taken in a wide range of sectors including energy, industry, transport and domestic. The measures themselves are also wide-ranging, from the use of economic instruments to emission targets for specific types of industrial facility and detailed specification of fuel quality. It appears, however, to be difficult to assess the extent of new policy initiatives specifically resulting from the NEC Directive, as individual measures may be addressing several problems at the same time (for example air quality, climate issues and energy policy).

⁸¹ AEA Energy & Environment, (2008), Evaluation of national plans submitted under the National Emission Ceilings Directive 2001/81/EC, Synthesis Report: http://ec.europa.eu/environment/air/pollutants/pdf/evaluation_synthesis_report.pdf. Entec UK Limited (2005), National Emission Ceilings Directive Review, Task 1 – In depth analysis of the NEC national programmes, Final Report: http://ec.europa.eu/environment/air/pollutants/pdf/final_report.pdf. Entec UK Limited (2005), National Emission Ceilings Directive Review – Project Summary and Recommendations, Final Report: <http://ec.europa.eu/environment/air/pollutants/pdf/recs.pdf>.

⁸² European Environment Agency (EEA), (2004), anAn initial assessment of Member States' national programmes and projections under the National Emission Ceiling's Directive (2001/81/EC). European Topic Centre on Air and Climate Change (ETC/ACC) Technical Paper 2003/8 for the European Environment Agency, April 2004.

A majority of the measures included in national programmes have been introduced under other Directives or are pre-existing national policies. Only six Member States have provided projections with additional measures. Measures listed in national programmes to target emissions from the (non-energy) industrial sector are dominated by common EU measures including the limitation of emissions. Few measures in national programmes targeted emission reductions from the domestic sector. The pollutant for which national measures taken by Member States seem most prominent is NH₃.

4.5.3 Identified problem areas

With respect to meeting the emission ceilings, Member States have expressed a range of concerns, including:

- Uncertainty in emission factors, most notably, but not exclusively, with respect to NO_x emissions from transport;
- Underestimation of economic growth when the original NEC Directive was agreed;
- Variation in inventory methodologies (for example, calculating emissions from fuel sold or fuel used) leading to differences in emission estimates from different sources;
- Assumptions of the universal applicability of some abatement measures; and
- Difficulties in implementing certain specific measures due to internal political resistance.

Although overall performance by Member States on reporting had improved by 2006, no Member State adequately met all reporting requirements of the NEC Directive⁸³. Estimating the difficulties in meeting the emission ceilings has proved difficult since virtually all of the national programmes lacked quantitative estimates of the effect of planned policies and measures needed for such an analysis. Also, the evaluation to assess whether Member States fulfil the reporting requirements under Articles 6 and 8 of the NEC Directive appears to have been complicated by ambiguities in the Directive's reporting requirements. Hence, the reporting of emission, projections and programmes needs to be improved, particularly with respect to the quality of submitted information, the extent to which reporting meets the obligations laid down in the NEC Directive and the timeliness of submission. A 2008 report evaluating the national programmes also recommended that a number of changes be made to the reporting requirements to improve clarity, for example on the submission process, deadlines and definition of projections, to improve harmonisation with other legislation, and to better focus the reporting on the needs of the Commission for evaluation of Member States' progress.

4.6 Air Quality Framework Directive

4.6.1 Introduction and summary of binding dates

Directive 96/62/EC, commonly known as the air quality framework Directive, entered into force on 21 November 1996. The deadline for transposition in the Member States was 21 June 1996. The Directive describes the basic principles as to how air should be assessed and managed in Member States, in particular with regard to establishing quality objectives for ambient air, drawing up common methods and criteria for assessing air quality, and obtaining and disseminating information on air quality. The Directive also lists the priority pollutants for which air quality standards and objectives will be developed and specified in daughter legislation.

⁸³ European Environment Agency (EEA) (2008), *NEC Directive status report 2007*, Technical report No 9/2008, http://www.eea.europa.eu/publications/technical_report_2008_9

Being a framework Directive it did not establish any precise air quality objectives as such, but rather it set out a legal and administrative framework and defined basic principles for ambient air quality monitoring and management. These principles were to come into effect once daughter Directives for specific pollutants had been adopted. The Directive foresaw that the EP and Council would lay down limit values and alert thresholds for the different pollutants.

As a consequence of Directive 96/62/EC, ambient air quality must be monitored throughout the territory of the Member States. Member States are required to draw up a list of the areas and conurbations where pollution levels exceed the limit values. If the limit values are exceeded a programme for attaining them within a set deadline must be devised. The programme, which must be made available to the public, must at least contain information on: the location of the excessive pollution; the nature of, and an assessment of, the pollution; and the origin of the pollution. Where the alert thresholds are exceeded, Member States must inform the inhabitants and send the Commission any relevant information (such as recorded pollution levels and duration of the alert).

There have subsequently been four daughter Directives⁸⁴ in respect of particular pollutants, and Council Decision 97/101/EC to bring about the reciprocal exchange of air quality monitoring information. Following the merging of four of these legal instruments, including Directive 96/62/EC, into a single new Directive on ambient air quality and cleaner air for Europe (2008/50/EC), binding dates have been introduced: Member States have two years to transpose Directive 2008/50/EC; until then the existing legislation applies (transposition before 11 June 2010 and entry into force on 11 June 2008). Some provisions of the new Directive, such as PM_{2.5} monitoring requirements, must be implemented sooner. It is expected that the provision enabling notifications of postponements or exemptions in respect of the limit values for PM₁₀, NO₂ or benzene will be applied before the end of the two year transposition deadline. Air quality objectives in force are not changed by Directive 2008/50/EC.

4.6.2 Overview of transposition and application in Member States⁸⁵

Member States were required, in accordance with Article 8 of Directive 96/62/EC, in all areas where there were problems, to prepare plans and programmes for attaining the limit value within the specific time limits. Member States were left to decide which measures would be the most appropriate. Zones designated for the protection of human health should cover the whole territory and the total population of a Member State. When problems persist, Member States are obliged to take measures to control and, where necessary, suspend activities, including motor-vehicle traffic, which contributed to the limit values being exceeded. The Commission noted⁸⁶ that the limit values aimed at protecting human health and the environment and emphasised the need to strike a balance between these objectives and the free movement of goods and services on the basis of a case-by-case assessment.

⁸⁴ Directive 1999/30/EC of 22 April 1999 relating to limit values for sulphur dioxide, nitrogen dioxide and oxides of nitrogen, particulate matter and lead in ambient air; Directive 2000/69/EC of 16 November 2000 relating to limit values for benzene and carbon monoxide in ambient air; Directive 2002/3/EC of 12 February 2002 relating to ozone in ambient air; Directive 2004/107/EC of 15 December 2004 relating to arsenic, cadmium, mercury, nickel and polycyclic aromatic hydrocarbons in ambient air

⁸⁵ <http://ec.europa.eu/environment/air/quality/legislation/reporting.htm>

⁸⁶ European Parliament, (2005), Implementation of European Environmental Law – Summary of Questions and Answers from Session with the Commission in the Environment Committee Meeting on 21 April 2005, <http://www.europarl.europa.eu/comparl/envi/pdf/implementation/is20050421.pdf>

A Community-wide procedure for the exchange of information and data on ambient air quality in the Community is established by Decision 97/101/EC on the Exchange of Information and Data (the EoI Decision)⁸⁷. A substantial part of the data submitted under the EoI Decision corresponds to mandatory monitoring requirements under Directive 96/62/EC and corresponding daughter legislation, which requires monitoring of air quality where certain thresholds are exceeded. Member States are obliged to use this data to assess compliance with the limit values set out in the daughter Directives.

A preliminary overview of the annual reports submitted by Member States to the European Commission allows an evaluation of compliance with many of the provisions⁸⁸. Regarding ambient air quality assessment, 13 Member States have a complete or almost complete coverage for the seven pollutants with a health related limit or target value. An almost complete coverage is in general found for SO₂, NO₂, PM₁₀, and ground-level ozone. Lower coverages are found in the case of lead, benzene, and carbon monoxide. Exceedances of the daily limit value for PM₁₀ remained a problem across the EU in 2007, with the value being exceeded in 40% of zones. Exceedance of the annual limit value plus margin of tolerance for NO₂ has been reported by 18 of the 25 Member States that have submitted information. Although the hourly limit value of NO₂ is less stringent, nine Member States report exceedances in one or more of their zones. Exceedances of the target values of ground-level ozone have been reported by 18 Member States; the health related target value is exceeded in 45% of the zones. Exceedances of the limit values of SO₂ were reported in total in 10 (hourly limit value) and 11 (daily limit value) zones in six Member States. Problems with benzene have been indicated by three Member States. Only two Member States reported concentrations of lead above the limit values. Carbon monoxide is a problem in three zones in three Member States. Voluntary information on the pollutants of the fourth daughter Directive has been provided by 14 Member States. For the heavy metals (arsenic, cadmium, nickel) a limited number of non-complying zones has been reported. The largest problems have been observed for benzopyrene with non-compliance areas found in seven Member States.

4.6.3 Identified problem areas

Some of the problems identified in the section above have been addressed in the revision and merger of the air quality framework Directive with three of its daughter Directives and Council Decision 97/101/EC through the adoption of Directive 2008/50/EC of 21 May 2008.

Reports on the first daughter Directive setting limit values for PM₁₀ to be progressively reached and obliging Member States to take all necessary measures to ensure compliance with the limit values showed that PM₁₀ concentration continuously exceeded the limit values in the Member States. This problem was addressed by Directive 2008/50/EC by extending the time for compliance for zones and agglomerations that exceed the limit values on condition that abatement programmes are established.

The existing approach under Directive 96/62/EC controlled PM₁₀ but not fine particles (PM_{2.5}). It was decided to include the latter in the new Directive as new evidence concluded that PM_{2.5} is more hazardous than PM₁₀. Directive 2008/50/EC therefore introduced new air quality objectives for PM_{2.5}, including a limit value and exposure-related objectives. In 2013, the Commission shall review the provisions related to PM_{2.5} and PM₁₀, and as appropriate other pollutants, and shall present a proposal to the EP and the Council.

⁸⁷ European Commission (2003), Commission staff working paper on the Implementation of Decision 97/101/EC on the Exchange of Information and Data (EoI), Final Report: http://ec.europa.eu/environment/air/pdf/implementation_report.pdf

⁸⁸ European Topic Centre on Air and Climate Change (EIONET) (2008), *Reporting on ambient air quality assessment – Preliminary results for 2007*, ETC/AAC Technical Paper 2008/4, 2008: http://air-climate.eionet.europa.eu/reports/ETCACC_TP2008_4_AQQ2007_prelim_analysis

Furthermore, monitoring is proving to be rather expensive. The Commission has identified the need to simplify and streamline existing provisions with respect to monitoring and reporting where obligations were judged unnecessary and reporting requirements non-essential. A greater use of modelling and objective estimation techniques to assess the extent of air pollution could be the result of improved understanding gained through a more comprehensive monitoring of certain pollutants. As part of the 2013 review, the Commission shall also prepare a report on the experience and on the necessity of monitoring of PM₁₀ and PM_{2.5}, taking into account technical progress in automatic measuring techniques. If appropriate, new reference methods for the measurement of PM₁₀ and PM_{2.5} shall be proposed.

4.7 Habitats Directive

4.7.1 Introduction and summary of binding dates

Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora (the habitats Directive) was introduced on 21 May 1992. The Directive has been amended on a number of occasions (01/01/1995, 28/11/1997, 20/11/2003, 01/05/2004 and 01/01/2007) in response to scientific and technical progress and the successive enlargements of the EU. The Directive aims to contribute towards the maintenance of biodiversity within Community territory through the conservation of natural habitats and the protection of species. The Directive's objective is to establish "favourable conservation status" for habitat types and species of Community interest (which are listed in the Annexes of the Directive), i.e. those natural habitat types in danger of disappearance in their natural range, which have a small natural range or which present outstanding examples of typical characteristics of biogeographical regions; and endangered, vulnerable, rare or endemic species.

As threats to species are often of a transboundary nature, a coherent European ecological network of special areas of conservation has been set up under the Natura 2000 network. This network is composed of sites hosting the natural habitat types listed in Annex I and habitats of the species listed in Annex II. Natura 2000 sites are selected on the basis of national lists proposed by the Member States. The Commission adopts a list of Sites of Community Importance (SCIs), based on a list of national sites submitted by Member States, for each biogeographical region, and SCIs become part of the network. The SCIs are then designated at the national level as Special Areas of Conservation (SACs). The Commission, in agreement with the Member States concerned, assesses the financing required for the creation of the protected area network. The Commission periodically reviews the contribution of Natura 2000 towards achievement of the objectives of the habitats Directive.

Member States must take the requisite measures to establish a system of strict protection for the animal species listed in Annex IV (a) in their natural range, prohibiting deliberate capture, killing or disturbance of these species and measures that would harm reproduction or migration of the species. For the plant species listed in Annex IV (b), the deliberate picking, collecting, cutting, uprooting or destruction of such plants in their natural range in the wild is prohibited. The Directive also includes restrictions on the trade of Annex species. If Member States deem it necessary, they will restrict the exploitation and taking in the wild of specimens of species of wild fauna and flora listed in Annex V. Member States have an opportunity to derogate from protective measures in certain circumstances, for example for imperative reasons of overriding public interest.

Member States are required to designate a SAC no later than six years after its selection as an SCI by the Commission. Every six years Member States are required to draw up a report on the implementation of the measures taken under the habitats Directive. The Commission prepares a composite report based on these reports.

4.7.2 Overview of transposition and application in Member States

There have been numerous legal challenges against Member States regarding the transposition and implementation of the habitats Directive. Since 2000, the Commission has threatened Member States which fail to meet their obligations under the birds and habitats Directives with the possibility of withholding funding under the EU structural and rural development funds. However despite these actions by the Commission, the submission of national lists of proposed SAC sites was delayed; and a number of Member States were taken to the ECJ by the Commission.

In January 2004, the Commission published the first composite report on implementation of the habitats Directive (COM(2003)845). This report highlighted some of the obstacles that have delayed implementation of the Directive in some Member States which included *inter alia*: limited availability of suitable scientific data; the lack of a clear process for site selection; and difficulties concerning certain ecosystems such as marine sites due to the lack of adequate data or overlapping administrative responsibilities.

At the end of 2007, all EU Member States (with the exception of Bulgaria and Romania as new Member States) were required to submit their second national reports on the implementation of the habitats Directive to the Commission. These reports covered the period 2001-2006 and focused on assessing the conservation status of all the species and habitats listed in the annexes of the habitats Directive (in accordance with Article 17). The initial results reveal that a number of species of Community interest have a favourable conservation status within a biogeographic region. However, only some species (for example a number of plants) have a favourable conservation status throughout their entire biogeographic range. Moreover, for the majority of species their overall conservation status is still considered to be unfavourable or unknown. Similar findings apply to habitats, with the exception of rocky habitats, the majority of which seem to be in favourable condition. The Commission's final composite report will be published in mid 2009 and is expected to play an important role in evaluating the accomplishment of the target to halt the loss of biodiversity in the EU by 2010.

The Commission continues to adopt new SCIs and updated Community lists of SCIs, extending the Natura 2000 network. In April 2009 the network covered over 26,000 protected areas with a total area of around 850,000km², representing more than 20% of the total EU territory. In 2008 significant areas were added to the network in the south-eastern Member States. While the implementation of Natura 2000 in marine areas has been encouraged over the past few years, the majority of marine Natura 2000 sites are coastal and only a small proportion are offshore.

Reporting under the habitats Directive is being developed further to add new components to reporting procedures and to harmonise reporting with requirements under the birds Directive (79/409/EEC). The Commission has set up an Expert Group on reporting under the nature Directives to take this forward.

4.7.3 Identified problem areas

The reports and communications of the Commission have identified the following problem areas in implementation of the habitats Directive:

- The legislation needs to be applied to a wide range of natural conditions, under very varied national and regional administrative arrangements, and in situations that often have a cross-border dimension;
- While substantial in coverage, the Natura 2000 network still has gaps;
- More effort is necessary to manage the sites in line with nature conservation objectives;
- The complaint and legal enforcement mechanisms for nature conservation in Member States are often weak or inappropriate;

- Ensuring application of best scientific knowledge, examination of alternatives and, where appropriate, provision of compensatory habitats are all major challenges;
- Insufficient attention is paid to deadlines and completeness during the adoption of national and regional legislation;
- There are shortcomings in knowledge, awareness and capacities in national and regional administrations; and
- Enforcement policies and practices are weak.

According to EP documents the following problem areas exist:

- The objectives of the EU's biodiversity policy and the habitats Directive are still far from being properly integrated into sectoral policies, such as agriculture, regional development, energy or transport;
- Construction projects with adverse impacts on Natura 2000 sites, such as the construction of motorways, canals and pipelines, continue to be carried out in Member States;
- In the past most Member States have made limited use of the opportunities under the current rural development Regulation to implement Natura 2000. Rural development and regional development programmes have often worked against EU nature conservation priorities;
- The capacities of the Member State administrations are often inadequate for the proper protection of species and habitats; and
- There is a lack of funding for management of the Natura 2000 network.

Other problem areas include:

- Extensive monitoring of the species and habitats in Member States, and reporting these results, requires vast financial and professional resources;
- If the conservation status of a species or a habitat has been found to be unfavourable, it is a major challenge to implement the measures that would enable its recovery to a favourable status. Such restoration plans often run into strong political and economic opposition;
- The majority of the scientific and technical work under the habitats Directive has been moved from the scientific working group of the Habitats Committee to new working groups under the Coordination Group for Biodiversity and Nature (CGBN). As the Commission does not cover the expenses of the new working groups, this new situation poses financial challenges for the participation of the small Member States; and
- Court cases in the environmental sector are often complex, requiring fine judgement, frequently with the support of scientific and other technical expertise.

4.8 Emissions Trading Directive

4.8.1 Introduction and summary of binding dates

Directive 2003/87/EC established a Community greenhouse gas (GHG) emission trading scheme as the major pillar of EU climate policy. Under the Directive, from 1 January 2005 onwards all installations with activities in the energy sector, iron and steel production and processing, the mineral industry and the wood pulp, paper and board industries must each year surrender a quantity of emission allowances equivalent to the level of their CO₂ emissions in the previous year.

The Directive obliges each Member State to draw up a National Allocation Plan (NAP) indicating how many allowances it intends to distribute for the relevant period and how it proposes to allocate them to each installation. The plans covering the first three-year trading period from 1 January 2005 to 1 January 2008 had to be submitted to the Commission by 1 October 2004 at the latest, and those relating to the subsequent five-year period from 2005 to 2008 were due at the end of June 2006.

The Commission subsequently examined whether the NAPs complied with the criteria set out in the Directive and decided whether to accept or reject the plans within three months of their notification.

Under the Directive, at least 95% of the allowances for the initial three-year period were to be allocated to the installations free of charge. For the second trading period, free allocation was to be at least 90%. Member States shall ensure: the free circulation of allowances within the European Community; that the operators of the installations surrender the correct quantity of allowances each year, no later than 30 April; and that operators measure and report their annual emissions according to the guidelines for monitoring GHG emissions. As part of the transposition into national law, each Member State was to determine its own sanctions regime covering infringements of the Directive and to notify the Commission accordingly by 31 December 2003.

Based on the Emissions Trading Directive, the Commission has adopted a Regulation⁸⁹ on the establishment of a system of registries in the form of an electronic database for monitoring the issuing, holding, transfer and cancellation of allowances. These registries also guarantee public access to information, confidentiality and conformity with the provisions of the Kyoto Protocol. At Community level, a Central Administrator has been nominated to maintain an independent transaction log recording the issue, transfer and cancellation of allowances at EU level. With regard to obligations under the UNFCCC and the Kyoto Protocol, the Commission has also regulated monitoring and reporting of GHG emissions within the Community⁹⁰. The implementation rules⁹¹ accompanying the relevant Decision include two reporting requirements: Member States have to submit information on national GHG emissions once a year; and twice-yearly they must report on national policies and programmes to cut emissions. Table 8 provides an overview of all binding dates and reporting duties.

Table 8: Overview of binding dates and reporting duties

Deadline	Action required from Member State
31/12/2003	Transpose Directive
01/10/2004	Submit NAP for the first trading period 2005–2007
30/06/2006	Submit NAP for the second trading period 2008–2012
30/12/2004	Establishing a national registry for allowances in electronic form
15/01/2006 (EU-15) 15/06/2006 (EU-10)	Member States information on emissions allowed under Kyoto target
Annually	Member State report on the application of the Directive
Annually	Member State report on national GHG emissions
Twice-yearly	Member State report on national policies and programmes to cut emissions

⁸⁹ Commission Regulation (EC) No 2216/2004 of 21 December 2004 for a standardised and secured system of registries pursuant to Directive 2003/87/EC and Decision No 280/2004/EC

⁹⁰ Decision No 280/2004/EC of the European Parliament and of the Council of 11 February 2004 concerning a mechanism for monitoring Community greenhouse gas emissions and for implementing the Kyoto Protocol.

⁹¹ Commission Decision 2005/166 of 10 February 2005. Reporting requirements are laid out in Art. 3 (1) and (2).

4.8.2 Overview of transposition and application in Member States

All of the deadlines mentioned in Table 8 were missed in a number of cases, leading to enforcement action by the Commission, including procedures before the ECJ. Failure to completely transpose the Directive into national law by 31 December 2003 led to procedures before the ECJ in eight cases⁹², while several Member States were late in submitting complete NAPs for the first trading period⁹³. However, delays in implementation were temporary and did not hinder a timely start to the trading system which began operating as planned in January 2005.

Similar problems occurred before the beginning of the second trading period. Several letters of formal notice were sent to Member States after eight failed to submit a NAP for the second trading period on time. In several cases, the Commission's decision on NAPs for the second trading period induced Member State governments as well as individual companies to bring annulment actions before the ECJ as they considered that the Commission's upper limit on allowance allocation was too low⁹⁴. The establishment of national registries – a prerequisite for enabling Community-wide trading via the Community Independent Transaction log – and the submission on the 'Assigned Amount' under the Kyoto Protocol⁹⁵ were equally accompanied by infringement procedures due to compliance problems. However, all remaining cases could be closed in 2007⁹⁶.

By contrast, the extensive annual reporting requirements on climate policies and emission reductions remain a constant challenge for Member States. The Commission repeatedly had to take action against Member States for failure to comply with the twice-yearly reporting requirements according to Decision 2005/166. In its 2008 Annual Report on the application of Community Law, the Commission nonetheless draws a positive picture, stating that rigorous enforcement has steadily increased reporting in terms of both content and timing⁹⁷.

⁹² Belgium, Finland, Greece, Ireland, Italy, Luxemburg, Portugal and the UK (for Gibraltar).

⁹³ EP ENVI (2005) *Implementation of European Environmental Law*. Summary of questions and answers from session with the Commission in the Environment Committee on 21 April 2005.

⁹⁴ EP ENVI (2006) *Implementation of European Environmental Law*. Summary of questions and answers from session with the Commission in the Environment Committee on 27 November 2006.

⁹⁵ European Commission, (2008), Situation in the different sectors, Commission staff working document accompanying the 25th Annual Report from the Commission on monitoring the application of Community Law (2007), (COM(2008)777); SEC(2008) 2855

⁹⁶ European Commission (2007), Situation in the different sectors, Commission staff working document, Annex to the 24th Annual Report from the Commission on monitoring the application of Community Law (2006). COM(2007) 398 final; SEC(2007) 976

⁹⁷ European Commission, (2008), Situation in the different sectors, Commission staff working document accompanying the 25th Annual Report from the Commission on monitoring the application of Community Law (2007), (COM(2008)777); (SEC(2008)2855), p. 129

4.8.3 Identified problem areas

Lack of time and data⁹⁸

According to Member States, the significant delays in transposing the Directive and drafting the NAPs resulted mainly from the very short time-frame to implement the Directive and the limited availability of adequate emission data. Reliable projections for future emissions were also lacking.

Legal ambiguities

Several Member States complained about the Directive being ambiguous and open to interpretation in some instances, especially concerning the legal nature of emission rights and provisions for the temporal and permanent cessation of operation and corresponding transferral of allowances. As a result, the legal status of allowances varies widely across Member States. Some consider allowances to be financial instruments; others regard them as normal commodities, and two Member States defined them as liabilities. To ensure equal treatment of companies, Member States have expressed the need for an alignment of the legal nature and financial treatment of allowances amongst them.

Administrative burden resulting from the allocation process

In the reports on implementation of the Directive, several Member States pointed out that the allocation process put a very significant workload on their administration and caused major problems. Difficult issues included inter alia the rules on new entrants, closures, capacity increases and the definition of "installation". Allocation for small installations and the need for accreditation of laboratories were also raised as problematic. Italy reported that most operators and stakeholders in general did not fully understand the allocation process, in particular the determination of a national cap which depends on projections, use of flexible mechanisms, Kyoto target and policies and measures in non-trading sectors. The lack of transparency of the criteria used by the Commission for assessing NAPs was considered an additional problem. During the process, conflicts between governments and operators in certain Member States emerged.

Need for harmonisation and streamlining of the allocation process

As a result of the difficulties in the first trading period, Member States asked for EU-wide harmonisation of issues such as the treatment of new entrants, closures or installations with low emissions, as well as rules regarding verification, sanctions and compliance control. In addition, they also called for a streamlined allocation process with consistent and transparent allocation rules and a harmonised definition of a combustion installation.

Many of these demands were subsequently addressed by the Commission, for instance through a revision of the monitoring and reporting rules,⁹⁹ and in a more general fashion through the review process that resulted in the new emissions trading Directive amending Directive 2003/87/EC (see section 2.6.1).

⁹⁸ Unless stated otherwise the following paragraphs are based on EEA (2006). Application of the emissions trading directive by EU Member States. EEA Technical report. No 2/2006.

⁹⁹ Commission Decision of 18 July 2007 C(2007/589/EC), see also EC DG Env Website (2009): http://ec.europa.eu/environment/climat/emission/mrg_en.htm

4.9 Directive on the Assessment and Management of Environmental Noise

4.9.1 Introduction and summary of binding dates

Directive 2002/49/EC relating to the assessment and management of noise sets a common, EU-wide approach to reducing exposure to environmental noise. This is achieved through: the determination of the extent of this exposure using common assessment methods and strategic noise mapping; the provision of information to the public; and the adoption of action plans to reduce noise exposure where necessary. The Directive is aimed at monitoring noise perceived by people in built-up areas, in public parks or other quiet areas in an agglomeration, in quiet areas in the open countryside, near schools, hospitals and other noise-sensitive buildings and areas.

The mapping of noise and the development of action plans is to be done in two stages. In the first stage, strategic noise maps and action plans have to be prepared for all agglomerations of more than 250,000 people, for major roads that carry more than six million vehicles a year, for major railways that carry more than 60,000 trains a year, and for airports with more than 50,000 annual aircraft movements. By 18 July 2008, the competent authorities in each Member State had to draw up action plans to reduce exposure to noise in the appropriate locations, as identified by the noise maps, on the basis of limit values or other criteria chosen by individual Member States.

In the second stage, strategic noise maps and action plans for all agglomerations of over 100,000 people, for roads carrying more than three million vehicles a year and for railways carrying more than 30,000 trains are to be produced. The list of these locations had to be provided to the Commission by 31 December 2008, whereas the noise maps and action plans in the second stage are to be completed within five years of the respective stage one requirements, as shown in Table 9. The Directive does not apply to noise from domestic activities, workplace noise, noise inside transport vehicles or military activities.

Table 9: Milestones of environmental noise Directive

Date	Milestone
18/07/2004	Transposition into national law
18/07/2005	Designation of implementing bodies/competent authorities
18/07/2006	Commission to submit appropriate legislative proposals on Community measures to reduce noise emitted by major sources.
30/06/2007	Strategic noise maps for all agglomerations with more than 250,000 inhabitants, for all major roads with 6 million vehicle passages a year, major railways with more than 60,000 train passages a year and major airports.
18/07/2008	Action plans to manage noise issues and effects, including noise reduction, drawn up
18/07/2009	First Commission implementation report
18/07/2009	First Commission summary report on data from noise maps and action plans, and every five years thereafter
30/06/2012	Strategic noise maps for all agglomerations, major roads and major railways; and every five years
18/07/2013	Action plans to address priorities which may be identified by the exceeding of any relevant limit value or other chosen criteria for agglomerations, major roads and major railways. Action plans to be reviewed when a major development occurs affecting the existing noise situation, and at least every five years after the date of approval.

4.9.2 Overview of transposition and application in Member States

Based on a report from the Environmental Noise Expert Group Meeting¹⁰⁰, by 2007 all Member States except Austria and Poland had transposed the Directive. The most recent annual report¹⁰¹ on monitoring the application of Community law from November 2008 does not mention any problems with transposition and hence it is assumed that transposition is now complete in all Member States.

Under the noise Directive, Member States had to send to the Commission by 30 December 2007 information from the strategic noise maps which had to be drawn up by 30 June 2007. For this the Commission prepared guidance and electronic templates (so-called “electronic reporting mechanisms”) designed to support and assist the Member States in fulfilling their reporting requirements. The Commission, together with the EEA, is currently assessing the information received and carrying out a quality check of the noise maps. Some Member States have not yet submitted their report.

On 19 March 2008, the Commission published an open call for a service contract to assist the Commission in preparing their review on the implementation of the environmental noise Directive and the need for any further Community action on environmental noise. The report is to be submitted to the EP and the Council by 18 July 2009.

4.9.3 Identified problem areas

Identified problem areas will be highlighted more broadly and in greater detail in the forthcoming Commission implementation report. Without pre-empting any of the findings, issues that are likely to be problematic include:

- The kind of criteria used for setting up quiet areas, such as within agglomerations, as no agreed definitions exist;
- The allocation of responsibility for implementation of the Directive. For instance in the UK airport operators are designated as responsible for implementation of the Directive at major civil airports;
- How to integrate management of noise into the planning process (there may be possibilities here to create links to the strategic environmental assessment Directive 2001/42/EC); and
- How to engage the public in the development and implementation of action plans.

4.10 Environmental Impact Assessment Directive

4.10.1 Introduction and summary of binding dates

Directive 85/337/EEC on the Environmental Impact Assessment (EIA) of the effects of projects on the environment was introduced in 1985 and subsequently amended in 1997. Member States had to transpose the amended EIA Directive by 14 March 1999. Following the signature of the Aarhus Convention by the Community on 25 June 1998, in May 2003 the Community adopted a Directive amending, amongst others, the EIA Directive. This Directive was intended to align the provisions on public participation of the EIA Directive with the Aarhus Convention on public participation in decision-making and access to justice in environmental matters. The Member States had to transpose Directive 2003/35/EC by 25 June 2005.

¹⁰⁰ http://circa.europa.eu/Public/irc/env/noisedir/library?l=/noisessteeringgroupsmeeting_20_2007/record_24i07pdf/_EN_1.0_&a=d

¹⁰¹ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=SEC:2008:2854:FIN:EN:PDF>

The Directive requires an EIA to be carried out before approval can be granted for certain public and private projects. The EIA is to identify the direct and indirect effects of a project on: human beings, fauna and flora; soil, water, air, climate and the landscape; material assets and cultural heritage; and the interaction between these factors. The developer of the project is to submit environmental information to the competent authority. In most Member States the information is presented in the form of an Environmental Impact Statement. Before the environmental information is submitted, the Directive provides that the developer can ask the competent authority for a scoping opinion. The scoping opinion will identify the matters to be covered in the environmental information. In some Member States scoping is a mandatory part of the EIA procedure.

The projects that are in all cases subject to an assessment are listed in Annex I of the Directive. In addition, Member States are to determine through case-by-case examination or thresholds or criteria set by them, whether the projects listed in Annex II should be subject to an EIA.

The public and authorities likely to be concerned with the project can express their opinions during the EIA procedure. All comments must be taken into account in the authorisation procedure of the project. If a project is likely to have significant environmental effects in another Member State, the other Member State may also participate in the environmental decision-making procedures of the project (in accordance with the UNECE Convention on environmental Impact Assessment in a Transboundary Context, the "Espoo Convention").

4.10.2 Overview of transposition and application in Member States

In 2008 the Commission published a five-year report on the application and effectiveness of the EIA Directive¹⁰². In general the report found that the EU-15 had established a fully-fledged EIA regime, while all new Member States had established comprehensive legal EIA regimes. It is a common feature that the new Member States, prior to EU membership, had established EIA schemes based on legal frameworks. All Member States have legislation that transposes Directive 2003/35/EC; however there are examples in several Member States of incomplete or incorrect transposition.

4.10.3 Identified problem areas

Problem areas identified in the EU-15 include:

- Unsystematic screening process to assess whether projects that are not listed in Annex I of the EIA Directive require an EIA;
- The process of identifying the content and extent of the environmental information to be submitted to the competent authority under the EIA procedure is poor;
- Cumulative effects are misused to de-emphasise the projects' actual impacts on the environment because of the decreased meaning of the environmental goods;
- There is a lack of a sufficient quality control system;
- The number of EIAs carried out varies from country to country;
- Results of the EIA are poorly reflected in development decisions; and
- The number of transboundary EIAs varies significantly from country to country.

Problem areas identified in the new Member States include:

- Variations among Member States in the screening and scoping procedures jeopardise efforts for establishing common references and experiences;
- The EIA Directive appears too general, resulting in different national application in Member States;

¹⁰² Report from the European Commission to the European Parliament and Council on the application and effectiveness of the EIA Directive ((Directive 85/337/EEC as amended by Directive 97/11/EC): How successful are the Member States in implementing the EIA Directive, http://ec.europa.eu/environment/eia/pdf/report_en.pdf

- The thresholds and criteria set by the EIA Directive should capture significant projects and avoid those that are less significant;
- National resources are limited as the number of screenings and EIAs performed increases;
- While the formal legal transposition is generally considered satisfactory, implementation should be improved;
- The quality of screening and EIA documents needs to be addressed;
- There are problems in dealing with cumulative effects and splitting of projects to avoid the EIA threshold;
- The implementation of access to justice should be strengthened; and
- Transboundary consultation and impact is insufficiently managed.

5 STRATEGIC OVERVIEW MAPS (SOM) OF IMPLEMENTATION AND REVIEW CLAUSE DEADLINES SET WITHIN EXISTING LEGISLATION

5.1 Introduction

This section contains a series of Strategic Overview Maps (SOM) of implementation and review clause deadlines set within existing Community environment legislation. The section is separated into eight thematic areas: water protection and management; natural resources and waste; air pollution; harmful substances; biodiversity, nature conservation and soil; climate change; noise pollution; and non-sectoral legislation. The maps provide an overview of key upcoming deadlines and the implementation status of environment legislation in force as of 31 May 2009. By highlighting the commitments of both the Member States and of the Commission, the SOM may provide possible ideas for own-initiative reports during the 2009-2014 legislative term of the European Parliament.

5.2 Water Protection and Management

	Pre-2009	2009	2010	2011	2012	2013	2014	Post-2014
Directive 2006/7/EC concerning the management of bathing water quality, repealing Directive 76/160/EEC								
Implementation	24/03/2008							
Review								No later than 2020
Directive 2006/118/EC on the protection of groundwater against pollution and deterioration								
Implementation		16/02/2009						
Review						Review of technical provisions		Review of technical provisions in 2019 and every 6 years thereafter

	Pre-2009	2009	2010	2011	2012	2013	2014	Post-2014
Directive 91/271/EEC concerning urban waste water treatment								
Implementation	30/06/1993							
Review	Review of programme no later than 30/06/1996 and every 2 years thereafter		Review of the programme no later than 30/06/2010 and every 2 years thereafter					
Directive 2005/35/EC on ship-source pollution and on the introduction of penalties for infringements								
Implementation	01/03/2007							
Review			Member States submit impl. report by 2010 and every 3 years thereafter, Commission to publish subsequent impl. Report					
Directive 2000/60/EC establishing a framework for Community action in the field of water policy (water framework Directive)								
Implementation	23/12/2003							
Review								No later than 23/12/2015 and every 6 years thereafter

	Pre-2009	2009	2010	2011	2012	2013	2014	Post-2014
Directive 2007/60/EC on the assessment and management of flood risks								
Implementation		26/11/2009						
Review								22/12/2018 and every 6 years thereafter
Directive 2008/105/EC on environmental quality standards in the field of water policy								
Implementation		13/01/2009						
Review								No later than 13/01/2021 and every 6 years thereafter

5.3 Natural Resources and Waste

	Pre-2009	2009	2010	2011	2012	2013	2014	Post-2014
Directive 2008/98/EC on waste								
Implementation	12/12/2008		12/12/2010 repeals Directives 2006/12/EC, 75/439/EEC, 91/689/EEC					
Review							12/12/2014 and every 3 years thereafter	

	Pre-2009	2009	2010	2011	2012	2013	2014	Post-2014
Directive 86/278/EEC on the protection of the environment and in particular of the soil, when sewage sludge is used in agriculture								
Implementation	17/06/1989							
Review	2007			17/06/2011 and every 4 years thereafter				
Directive 2006/66/EC on batteries and accumulators and waste batteries and accumulators repealing Directive 91/157/EEC								
Implementation	26/09/2008							
Review							By 26/03/2014 and every 3 years thereafter	
Directive 1999/31/EC on the landfill of waste								
Implementation	16/07/2001							
Review		No later than 1 st quarter 2009 and every 3 years thereafter	2010					
Directive 2000/53/EC on end-of-life vehicles								
Implementation	21/04/2002							
Review	2006	21/10/2009 and every 3 years thereafter						

	Pre-2009	2009	2010	2011	2012	2013	2014	Post-2014
Directive 2000/59/EC on port reception facilities for ship generated waste and cargo residues								
Implementation	28/12/2002							
Review	Member States submit impl. report every 3 years, Commission to publish subsequent impl. report							
Directive 2002/96/EC on waste electrical and electronic equipment (WEEE)								
Implementation	13/08/2004							
Review	Member States submit first report on impl. in 2007 and every 3 years thereafter. Commission to publish subsequent impl. report 9 months thereafter (2008)							

	Pre-2009	2009	2010	2011	2012	2013	2014	Post-2014
Directive 2002/95/EC on the restriction of the use of certain hazardous substances in electrical and electronic equipment (RoHS)								
Implementation	13/08/2004							
Review	Review measures before 13/02/2005							
Regulation 2150/2002 on waste statistics								
Implementation	29/12/2002							
Review	No later than 29/12/2007 and every 3 years thereafter							
Directive 2006/21/EC on the management of waste from extractive industries and amending Directive 2004/35								
Implementation	01/05/2006							
Review			No later than 2010 and every 3 years thereafter					

5.4 Air Pollution

	Pre-2009	2009	2010	2011	2012	2013	2014	Post-2014
Directive 98/70/EC relating to the quality of petrol and diesel fuels and amending Council Directive 93/12/EEC								
Implementation	01/07/1999							
Review	No later than 31/12/2005							
Directive 94/63/EC on the control of VOC emissions from the storage and distribution of petrol								
Implementation	31/12/1995							
Review			No later than 2 nd quarter 2010 and every 3 years thereafter					
Directive 2008/01/EC on integrated pollution prevention and control (IPPC) (codified version)								
Implementation	18/02/2008							
Review	2007		No later than 2 nd quarter 2010 and every 3 years thereafter					

	Pre-2009	2009	2010	2011	2012	2013	2014	Post-2014
Directive 2008/50/EC on ambient air quality and cleaner air for Europe								
Implementation			11/06/2010, repeal Directive 96/62/EC					
Review						In 2013 the Commission shall review the provisions related to PM2,5 and, as appropriate, other pollutants		
Directive 2003/17/EC relating to the quality of petrol and diesel fuels and amending Council Directive 98/70/EC								
Implementation	30/06/2003							
Review		Commission publish by 31/12/2009 and every year thereafter a report on actual fuel quality in Member States						
Regulation 2037/2000 on substances that deplete the ozone layer								
Implementation	01/10/2000							

	Pre-2009	2009	2010	2011	2012	2013	2014	Post-2014
Review	<p>Before 31/12/2002, Commission review level of production of HCFCs</p> <p>Each year, Commission review the critical uses listed in Annex VII and, if necessary, adopt modifications in accordance</p> <p>Before 31/12/2008 the Commission review the technical and economic availability of alternatives to recycled HCFCs.</p>							
Directive 2004/42/EC on the limitation of emissions of volatile organic compounds due to the use of organic solvents in certain paints and varnishes and vehicle refinishing products and amending Directive 1999/13/EC								
Implementation	30/10/2005							

	Pre-2009	2009	2010	2011	2012	2013	2014	Post-2014
Review	Commission publish, no later than 2008 , a report based on the results of the review referred to in Article 10 of Directive 2001/81/EC							
Directive 2000/76/EC on incineration of waste								
Implementation	28/12/2002							
Review	Commission publish a report by 31/12/2008 based on experience in application of Directive							
Directive 2001/81/EC on national emission ceilings for certain atmospheric pollutants								
Implementation	27/11/2002							
Review	2006	Proposed revision to be published			Progress report on impl. to be published			

5.5 Harmful Substances

	Pre-2009	2009	2010	2011	2012	2013	2014	Post-2014
Regulation 1272/2008 on classification, labelling and packaging of substances and mixtures, amending and repealing Directives 67/548/EEC and 1999/45/EC, and amending Regulation 1907/2006								
Implementation		20/01/2009						
Review					Report and possible legislative proposals to be published by Commission			
Regulation 648/2004 on detergents								
Implementation	08/10/2005							
Review		Implementation report to be published on 09/04/2009						
Regulation 396/2005 on maximum residue levels of pesticides in or on food and feed of plant and animal origin and amending Directive 91/414/EEC								
Implementation	05/04/2005							
Review								No later than 2015

	Pre-2009	2009	2010	2011	2012	2013	2014	Post-2014
Regulation 689/2008 concerning the export and import of dangerous chemicals								
Implementation	01/08/2008							
Review		List of chemicals in Annex I to be reviewed no later than 2009 and every year thereafter						
Directive 98/81/EC amending Directive 90/219/EEC								
Implementation	05/06/2000							
Review				05/06/2011 and every 3 years thereafter				
Directive 2001/18/EC on the deliberate release into the environment of genetically modified organisms and repealing Directive 90/220/EEC								
Implementation	17/10/2002							
Review		2009 and every 3 years thereafter						
Directive 2008/68/EC on the inland transport of dangerous goods								
Implementation		30/06/2009						
Review								

	Pre-2009	2009	2010	2011	2012	2013	2014	Post-2014
Directive 2002/59/EC establishing a Community vessel traffic monitoring and information system and repealing Directive 93/75/EEC								
Implementation	05/02/2004							
Review			Commission report on impl. no later than 31/06/2010					
Regulation 1946/2003 on the transboundary movements of genetically modified organisms								
Implementation	25/11/2003							
Review	Commission report on impl. at regular intervals							
Regulation 1102/2008 on the banning of exports of metallic mercury and certain mercury compounds and mixtures and the safe storage of metallic mercury								
Implementation	08/12/2008							

	Pre-2009	2009	2010	2011	2012	2013	2014	Post-2014
Review			By 01/01/2010, Commission produce report on ongoing research activities on safe disposal options, including solidification of metallic mercury.					Commission submit proposal for a revision of Regulation no later than 15/03/2013
Regulation 1907/2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH)								
Implementation	01/06/2007 (Titles I, IV, IX, X, XIII, XIV and XV) 01/06/2008 (Titles II, III, V, VI, VII, XI and XII)							

	Pre-2009	2009	2010	2011	2012	2013	2014	Post-2014
Review							By 01/06/2014 , Commission carry out a review to assess, for substances meeting the criteria for classification as carcinogenic, mutagenic or toxic for reproduction, category 1 or 2, in accordance with Directive 67/548/EEC, whether or not to extend the application of the obligation to perform a chemical safety assessment and to document it in a chemical safety report to substances not covered by this obligation	By 01/06/2019 , similar review for remaining substances

5.6 Biodiversity and nature conservation

	Pre-2009	2009	2010	2011	2012	2013	2014	Post-2014
Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora								
Implementation	21/05/1994							
Review	Member States draw up impl. report every 6 years, Commission to publish a composite report no later than 2 years after receipt of Member State reports	Second composite report to be published						
Directive 79/409/EEC on the conservation of wild birds								
Implementation	02/04/1981							
Review	Member States draw up impl. report every 3 years, Commission to publish a composite report on this basis every 3 years							
Directive 2008/56/EC establishing a framework for Community action in the field of marine environmental policy (marine strategy framework Directive)								
Implementation			15/07/2010					
Review								No later than 2023

	Pre-2009	2009	2010	2011	2012	2013	2014	Post-2014
Regulation 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD)								
Implementation	20/12/2005; Applies to Community support policies from 01/01/2007					31/12/2013; End of plan period		
Review	2008-2016 inclusive, and by 30 June each year, the Managing Authority of each Member State to send Commission annual progress report on the impl. of the programme							

5.7 Climate Change

	Pre-2009	2009	2010	2011	2012	2013	2014	Post-2014
Decision 2004/280/EC concerning a mechanism for monitoring Community greenhouse gas emissions and for implementing the Kyoto Protocol								
Implementation	19/02/2004							
Review		15/06/2009 and every year thereafter						
Directive 2006/32/EC on energy end-use efficiency and energy services and repealing Directive 93/76/EEC								
Implementation	17/05/2008; (Article 14(1), (2) and (4) 17/05/2006)							
Review				No later than 17/05/2011 Commission publish report on progress in setting indicators and benchmarks				

	Pre-2009	2009	2010	2011	2012	2013	2014	Post-2014
Regulation 2008/106 on a Community energy efficiency labelling programme for office equipment (recast version)								
Implementation	04/03/2008							
Review	14/07/2008 and every year thereafter		18/12/2010 Commission report on effectiveness of Directive					
Directive 2005/32/EC establishing a framework for the setting of ecodesign requirements for energy using products								
Implementation	11/08/2007							
Review			No later than 06/07/2010					
Directive 2003/87/EC establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC								
Implementation	31/12/2003							
Review	By 30/06/2006							
Directive 2008/101/EC amending Directive 2003/87/EC so as to include aviation activities in the scheme for greenhouse gas emission allowance trading within the Community								
Implementation			02/02/2010					
Review							01/12/2014	

	Pre-2009	2009	2010	2011	2012	2013	2014	Post-2014
Directive 2004/8/EC on the promotion of cogeneration based on useful heat demand in the internal market and amending Directive 92/42/EC								
Implementation	21/02/2006							
Review					21/02/2012 and every 4 years thereafter			
Regulation 842/2006/EC on certain fluorinated greenhouse gases								
Implementation	04/07/2007							
Review				04/07/2011 Commission publish full report on the adequacy of the Regulation and any needed additional policy measures				
Directive 2006/40/EC relating to emissions from air-conditioning systems in motor vehicles and amending Directive 70/156/EEC								
Implementation	06/06/2006							
Review				04/07/2011				

5.8 Noise Pollution

	Pre-2009	2009	2010	2011	2012	2013	2014	Post-2014
Directive 2000/14/EC on the approximation of the laws of the Member States relating to the noise emission in the environment by equipment for use outdoors (Amended)								
Implementation	31/12/2005							
Review	First report on impl. 03/01/2007							
Directive 2002/30/EC on the establishment of rules and procedures with regard to the introduction of noise-related operating restrictions at Community airports								
Implementation	28/09/2003							
Review	No later than March 2007							

	Pre-2009	2009	2010	2011	2012	2013	2014	Post-2014
Directive 2002/49/EC relating to the assessment and management of environmental noise								
Implementation	<p>18/07/2004</p> <p>30/06/2007: Strategic noise maps for certain agglomerations, major roads, railways and airports.</p> <p>18/07/2008: Action plans to manage noise issues and effects</p>				<p>30/06/2012 Strategic noise maps for all agglomerations, major roads and railways</p>	<p>18/07/2013 Action plans to address identified priorities</p>		
Review	<p>18/07/2006 Commission to submit legislative proposals on measures to reduce noise emitted by major sources</p>	<p>Commission report on impl. and summary report on data from noise maps and action plans on 18/07/2009</p>						

5.9 Non-sectoral Legislation

	Pre-2009	2009	2010	2011	2012	2013	2014	Post-2014
Directive 2003/35/EC on the assessment of the effects of certain public and private projects on the environment (Amended)								
Implementation	25/06/2005							
Review		25/06/2009 Commission report on application and effectiveness of Directive						
Directive 2003/4/EC on public access to environmental information and repealing Council Directive 90/313								
Implementation	14/02/2005							
Review		14/08/2009 Member States report on experience of application						

	Pre-2009	2009	2010	2011	2012	2013	2014	Post-2014
Directive 91/692/EEC standardizing and rationalizing reports on the implementation of certain Directives relating to the environment								
Implementation	01/01/1993 (Articles 2 & 3); 01/01/1994 (Article 4); 01/01/1995 (Article 5)							
Review				No later than 2 nd quarter 2011 and every 3 years thereafter				
Decision 1578/2007/EC on the Community Statistical Programme 2008 to 2012								
Implementation	31/12/2007							
Review			June 2010 Interim Progress Report			By end of 2013 evaluation Report on impl.		
Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment								
Implementation	21/07/2004							

	Pre-2009	2009	2010	2011	2012	2013	2014	Post-2014
Review						No later than 21/07/2013 Evaluation report on application and effectiveness of Directive		
Directive 2003/35/EC providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment and amending with regard to public participation and access to justice Council Directives 85/337/EEC and 96/61/EC								
Implementation	25/06/2005							
Review		25/06/2009						
Regulation 761/2001 allowing voluntary participation by organisations in a Community eco-management and audit scheme (EMAS)								
Implementation	27/04/2001							
Review	No later than 27/04/2006							
Regulation 1980/2000 on a revised Community eco-label award scheme								
Implementation	24/09/2000							
Review	Before 24/09/2005							

	Pre-2009	2009	2010	2011	2012	2013	2014	Post-2014
Directive 2004/35/EC on environmental liability with regard to the prevention and remedying of environmental damage								
Implementation	30/04/2007							
Review							30/04/2014 Commission report may include proposals for amendments	
Directive 2008/99/EC on the protection of the environment through criminal law								
Implementation	26/12/2010							
Review								
Regulation 1367/2006 on the application of the provisions of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to Community institutions and bodies								
Implementation	28/06/2007							

	Pre-2009	2009	2010	2011	2012	2013	2014	Post-2014
Review	Commission to ensure that at regular intervals not exceeding 4 years, a report on the state of the environment, including information on the quality of, and pressures on, the environment is published and disseminated							

6 OVERVIEW OF EXISTING STUDIES, BRIEFINGS AND WORKSHOP MATERIAL

6.1 Introduction

This section provides a list of all existing studies, briefing notes and workshop material that have been requested by the ENVI Committee and provided by Policy Department A during the period 2003-2009. The documents can be accessed through the [European Parliament website](#).

6.2 Environment

Studies	
<p>Welcome package (June 2009)</p>	<p>Study prepared in the context of a "Welcome Package" for the newly elected MEPs in the next legislature 2009-2014. This study contains an overview of existing legislation, the Thematic policy review for the period 2004-2009, background notes for new Commissioner Hearings on Environment, a strategic Overview Maps (SOM) of implementation and review clause deadlines set within existing/agreed legislation.</p>
<p>Land degradation and desertification (January 2009)</p>	<p>This report sets out to provide an integrated picture of land degradation issues and actions within the EU. Findings from literature, academic research and policy analysis are brought together within this study, in order to explain: the extent of degradation to date in Europe and globally; policy responses to date in the EU and anticipated future evolution; and the nature of debate and implementation of the UN Convention to Combat Desertification (UNCCD).</p>
<p>http://www.europarl.europa.eu/activities/committees/studies/download.do?language=en&file=24833</p>	
<p>Linking the EU's Emissions Trading System to any future US emissions trading scheme (January 2009)</p>	<p>Emerging trading schemes in the US offer the opportunity of a future trading link to the European Union emissions trading scheme. Interest in the benefits of such a link has prompted formal and informal cooperation across the Atlantic, including initiatives such as the International Carbon Action Partnership launched in October 2007 with the express aim of creating a "forum to discuss relevant questions on the design, compatibility and potential linkage of regional carbon markets".</p>
<p>http://www.europarl.europa.eu/activities/committees/studies/download.do?language=en&file=24368</p>	

<p>International Forest Policy: Integrated climate and forestry policy options The implications of carbon financing for pro-poor community forestry: How do we design forest policy tools to jointly address climate change, environmental and development goals?</p> <p>(October 2008)</p>	<p>The study addresses the integrated climate and forestry policy options in developing countries, focussing on the implications of carbon financing for pro-poor community forestry. Specifically, it considers the implications of carbon financing for pro-poor community forestry.</p>
<p>http://www.europarl.europa.eu/activities/committees/studies/download.do?file=23272</p>	
<p>The EU's emission reduction target, intended use of CDM and its +2°C</p> <p>(September 2008)</p>	<p>The ultimate goal of the UNFCCC is to stabilise atmospheric concentrations of greenhouse gases (GHG) at a level that prevents dangerous human interference with the climate system. The 1995 Second Assessment Report from the IPCC, put forward evidence that the risk of severe climate change impacts would increase markedly beyond a temperature rise of 2°C above pre-industrial levels. Consequently the European Commission set 2°C as the EU's target ceiling.</p>
<p>http://www.europarl.europa.eu/activities/committees/studies/download.do?file=22071</p>	
<p>Biofuels sustainability criteria. Relevant issues to the proposed Directive on the promotion of the use of energy from renewable sources {COM(2008) 30 final}</p> <p>(June 2008)</p>	<p>The proposed EU Directive setting a target of 10% biofuels in transport sector by 2020 has therefore raised a number of concerns. The concerns about sustainability are addressed within the proposed Directive through criteria related mainly to GHG emissions, but also to biodiversity and other environmental impacts.</p>
<p>http://www.europarl.europa.eu/activities/committees/studies/download.do?file=21931</p>	
<p>Study on 'Impact assessment of recycling targets in the waste framework directive'</p> <p>(May 2008)</p>	<p>Following the Commission's proposal on Waste Framework Directive and Council common position, the European Parliament has proposed a set of amendments to establish industrial binding targets in 2nd reading.</p>
<p>http://www.europarl.europa.eu/activities/committees/studies/download.do?file=21011</p>	
<p>Workshop "Sustainable biofuel Production (sub) tropical countries"</p> <p>(June 2008)</p>	<p>The workshop stressed the fact that there are very good preconditions for biofuel production in some tropical and subtropical countries and increasing production may for some developing countries offer the opportunity to increase exports and at the same time meet some of the internal energy demands. However, the willingness to invest may be constrained by issues of political stability or uncertainties regarding the demands for imports. Most importantly, questions of how to use the potential for production in a sustainable way need to be addressed.</p>
<p>http://www.europarl.europa.eu/activities/committees/studies/download.do?file=21582</p>	

<p>Workshop "Effort sharing under the Climate Package - Assessing the role of the Clean Development Mechanism"</p> <p>(June 2008)</p>	<p>The workshop explored the role of CDM under the proposed legislative climate package. A panel of prominent experts focussed on the contribution of CDM in meeting the EU targets and the global objective of maintaining climate change to +2°C compared to preindustrial levels, the quality and types of projects, and the link with the negotiations under the UNFCCC on an international agreement for after 2012.</p>
<p>http://www.europarl.europa.eu/activities/committees/studies/download.do?file=21435</p>	
<p>Workshop Assessing the Commission's Proposal on Carbon Capture and Storage</p> <p>(May 2008)</p>	<p>The Carbon Capture and Storage (CCS) is a technology that some claim can provide a technical fix to buy the world time in its fight against climate change, but that others, e.g. Greenpeace, assert is a diversion from the important effort to increase energy saving and the use of renewables. The purpose of the workshop is to debate the legislation that is designed to enable the EU's world leadership on CCS.</p>
<p>http://www.europarl.europa.eu/activities/committees/studies/download.do?file=21951</p>	
<p>Workshop "Future of the EU ETS"</p> <p>(May 2008)</p>	<p>In January 2008 the European Commission (EC) presented an integrated Climate and Energy package to cut emissions for the 21st Century, including proposals for specific targets on renewable energy (20% by 2020) and greenhouse gas emissions reduction (20% by 2020). A workshop was organised to debate this issue.</p>
<p>http://www.europarl.europa.eu/activities/committees/studies/download.do?file=21419</p>	
<p>Workshop Assessing the Commission's Impact Assessment on the "Communication on Water Scarcity and Droughts"</p> <p>(April 2008)</p>	<p>Experts presented different aspects such as water management, scarcity and droughts, sustainable water resource management, the water scarcity and drought information system, how to cope with water scarcity and droughts.</p>
<p>http://www.europarl.europa.eu/activities/committees/studies/download.do?file=20299</p>	
<p>Workshop Mid-term review of the EU environment and health action plan (2004-2010)</p> <p>(March 2008)</p>	<p>As highlighted in previous EP resolutions (mainly the one adopted on 23 February 2005) the Action Plan on Health and Environment (COM(2004)416) provides a powerful mechanism to illustrate the links between health problems and environmental pollution, and provide the rationale for EU Environmental policy that contributes to better health.</p> <p>Therefore, it is essential that the European Parliament continues to give a strong message about the political importance of the EU Environment and Health Action Plan.</p>
<p>http://www.europarl.europa.eu/activities/committees/studies/download.do?file=19915</p>	
<p>Assessment of the mid-term achievements of the EU environment and health action plan (2004-2010)</p> <p>(March 2008)</p>	<p>The objectives of this study are: to provide an independent assessment of the achievements of the Action Plan in order to give balanced views; and, subsequently, to provide information and recommendations which may improve and strengthen the European approach to integration of environment and health issues.</p>
<p>http://www.europarl.europa.eu/activities/committees/studies/download.do?file=19791</p>	

Workshop Sustainability criteria for biofuels (March 2008)	This workshop focuses on sustainability criteria for biofuels. Different stakeholders/experts debated this topic.
http://www.europarl.europa.eu/activities/committees/studies/download.do?file=19931	
Water scarcity and droughts (Communication) (February 2008)	The main topics addressed by this study are: economic effects of water scarcity and droughts, effects on ecosystems and public health, effects of climate change, water price policies in the Member States, integration of the issue into other policy areas, information availability for strategic decision-making, knowledge gaps, research and technology development related to efficient water use in industry/agriculture and private households, EU institutional roles for decision-making and the situation in neighbouring countries/areas.
http://www.europarl.europa.eu/activities/committees/studies/download.do?file=19611	
Forest fires (causes and contributing factors in Europe) (February 2009)	The study aims to provide a critical analysis of the causes that lead to the most relevant recent forest fires events in the EU, focusing in particular on Southern European countries. To do so, two case studies were developed, one the Portuguese forest fires of 2003 and 2005, and one on the Greek fires of 2007.
http://www.europarl.europa.eu/activities/committees/studies/download.do?file=19989	
Impact assessment on Priority substances in water (February 2009)	The impact assessment, requested in the context of Procedure 2006/0129 (COD), highlights that water pollution represents a threat to economic development as well as to human health and to the environment. Therefore, the Parliament envisaged the need to reconsider the pollutants covered in the comitology, taking into account scientific and technical progress.
http://www.europarl.europa.eu/activities/committees/studies/download.do?file=19391	
Workshop Assessing the Commission's Impact Assessment on the "Communication on Water Scarcity and Droughts" (February 2009)	A workshop was organised on the Impact Assessment on the "Commission's Communication on Water Scarcity and Droughts". This was held in the context of an ENVI report on the abovementioned Communication published by the European Commission on 18 July 2007. A panel of 3 experts analysed and debated the Commission's presentation and subsequently answered Members' questions about the different policy options presented in the Impact Assessment.
http://www.europarl.europa.eu/activities/committees/studies/download.do?file=19503	
Workshop CO2 reductions from passenger cars (November 2007)	During this workshop an overview of different stakeholders opinions (car manufacturers, environmental organisations and general public) and an independent assessment about the possibility to reduce CO2 emissions from passenger cars were presented.
http://www.europarl.europa.eu/activities/committees/studies/download.do?language=en&file=18437	

<p>Climate change impacts on Developing Countries - EU Accountability</p> <p>(November 2007)</p>	<p>This report presents a summary of the impacts of climate change on developing countries and what the European Union can do to minimise the effects of climate change on the developing world through both mitigation and adaptation.</p>
<p>http://www.europarl.europa.eu/activities/committees/studies/download.do?language=en&file=18331</p>	
<p>Assessment of the achievements of the 6th Environmental Action Programme</p> <p>(October 2007)</p>	<p>This study provides an independent assessment of the achievements of the 6EAP across all four of its 'key environmental priorities'. In addition, this study also discusses in particular the role of the Thematic Strategies developed pursuant to the 6EAP as well as two of the main strategic approaches to meeting the environmental objectives identified in the Programme.</p>
<p>http://www.europarl.europa.eu/activities/committees/studies/download.do?language=en&file=17992</p>	
<p>Alternative progress indicators to Gross Domestic Product (GDP) as a means towards sustainable development</p> <p>(October 2007)</p>	<p>Economic performance is generally being measured through GDP. However, GDP does not properly account for social and environmental costs and benefits. Therefore, in order to effectively measure 'progress, wealth and well-being', one must go beyond GDP. This study highlights the benefits and some of the shortcomings of GDP.</p>
<p>http://www.europarl.europa.eu/activities/committees/studies/download.do?language=en&file=19990</p>	
<p>Workshop Fuel quality directive</p> <p>(July 2007)</p>	<p>The amendments for the Fuel Quality Directive focus on two main topics: Air pollution and GHG emissions. This workshop focused primarily on the second subject, and in particular on two specific items: emission reductions and calculation methods for GHG emissions in the fuel chain, and the introduction of sustainability criteria in the directive.</p>
<p>http://www.ipolnet.ep.parl.union.eu/ipolnet/webdav/site/myjahiasite/shared/poldepa/environment/pe385654_en.pdf</p>	
<p>Workshop on "Limiting Global Climate Change to 2°C: the way ahead for 2020 and beyond"</p> <p>(July 2007)</p>	<p>Climate Change is currently a hot topic and a big challenge, in particular for the European Union. Invited expert panels highlighted recent scientific findings on the possible impacts of climate change and the need for more stringent emission reduction measures.</p>
<p>http://www.europarl.europa.eu/activities/committees/studies/download.do?language=en&file=17539</p>	
<p>Energy and the Structural and Cohesion Policies</p> <p>(June 2007)</p>	<p>This note seeks to examine the implications, challenges and proposals that affect structural and cohesion policies in the context of current energy policy. The energy scenario surrounding structural and cohesion policies is a complex one that requires all synergies to interact in order to make European energy policy efficient and competitive and ensure that its supply is secure.</p>
<p>http://www.europarl.europa.eu/activities/committees/studies/download.do?language=en&file=18098</p>	
<p>Workshop on "Inclusion of aviation emissions in the EU Emissions Trading Scheme (ETS)"</p> <p>(June 2007)</p>	<p>Experts stressed that action needs to be taken and that inclusion of aviation in the EU ETS is the most cost-effective instrument available at the moment. The Council's discussions were currently focussing on potential allocation methods for airlines under the scheme. Most national experts agree that the average benchmarking approach would be a good starting point.</p>
<p>http://www.europarl.europa.eu/activities/committees/studies/download.do?language=en&file=17495</p>	

<p>Co2 Reductions From Passenger Cars</p> <p>(June 2007)</p>	<p>This study gives an independent assessment on the key question: what CO2 reduction targets are feasible to demand of car manufacturers for passenger cars in terms of engine, vehicle design technology and costs? The assessment presents potential cost savings for consumers due to lower fuel consumption and of environmental benefits due to less CO2 emissions.</p>
<p>http://www.europarl.europa.eu/activities/committees/studies/download.do?language=en&file=17491</p>	
<p>Inclusion of Sustainability Criteria in the Fuel Quality Directive</p> <p>(June 2007)</p>	<p>Directive 1998/70/EC relating to the quality of petrol and diesel fuels, better known as Fuel Quality Directive (FQD), is currently under revision. The ENVI Committee of the European Parliament (“the Environment Committee”) requested a study on the inclusion of sustainability criteria in the revised Fuel Quality Directive.</p>
<p>http://www.europarl.europa.eu/activities/committees/studies/download.do?language=en&file=17223</p>	
<p>Nanomaterials in Consumer Products</p> <p>(April 2007)</p>	<p>This report, describing a study on the use of nanomaterials in consumer products, discusses potential risks for human health and the environment due to the use of nanomaterials in these kinds of products. The main objective of the study is to analyse the adequacy of the current regulatory framework to address these potential risks.</p>
<p>http://www.europarl.europa.eu/activities/committees/studies/download.do?language=en&file=16637</p>	
<p>Simplifying EU Environmental Policy</p> <p>(April 2007)</p>	<p>This report examined the following questions in relation to the EU’s environmental legislation:</p> <ul style="list-style-type: none"> •What are the criteria for assessing the range of issues encompassed by the term "simplification"? •What current environmental legislation should be the priority? •What substance/outcomes of environmental legislation require simplification?
<p>http://www.europarl.europa.eu/activities/committees/studies/download.do?language=en&file=16579</p>	
<p>Simplification of European Water Policies</p> <p>(April 2007)</p>	<p>Over the past few years, extensive work has been done within the scope of the ‘Better Regulation’ Strategy to start and push forward a process of overall simplification of the regulatory environment in the EU. This briefing could identify some further simplification options in the field of European Water Policy.</p>
<p>http://www.europarl.europa.eu/activities/committees/studies/download.do?language=en&file=16399</p>	
<p>End of Life Vehicles (ELV) Directive An assessment of the current state of implementation by Member States</p> <p>(March 2007)</p>	<p>This report provides an assessment of various aspects of the ELV Directive that were of particular interest to the European Parliament’s ENVI Committee, on the basis of a series of case studies. It focuses in particular on transposition of the Directive; free take back and disposal arrangements; and the extent to which recycling targets were met.</p>
<p>http://www.europarl.europa.eu/activities/committees/studies/download.do?language=en&file=16299</p>	

<p>The Problem of Biodiversity Loss in the EU Evaluation of EU efforts towards achieving the objectives of the Convention on Biological Diversity, 2010 and beyond</p> <p>(January 2007)</p>	<p>Since global biodiversity is in decline, the Heads of State have agreed on a stronger commitment i.e. ‘to halt the loss of Europe’s biodiversity by 2010’ (the Gothenburg European Council in 2001). To achieve this commitment, the Commission enrolled in several initiatives. It also provides a new ‘EU Action Plan to 2010 and Beyond’. This paper discusses the Commission efforts, in particular, the new Action Plan, towards the achievement of the target.</p>
<p>http://www.europarl.europa.eu/activities/committees/studies/download.do?language=en&file=17531</p>	
<p>The Proposed Directive on Waste An assessment of the Impact Assessment and the Implications of the Integration of the Hazardous Waste Directive into the existing Waste Framework Directive</p> <p>(December 2006)</p>	<p>The aim of this report was to undertake an assessment for the European Parliament of the following two aspects of the proposed DoW (the proposal to amend the waste framework Directive): the Impact Assessment of the proposed DoW and selected potential changes to hazardous waste law resulting from the integration of the HWD into the proposed DoW.</p>
<p>http://www.europarl.europa.eu/activities/committees/studies/download.do?language=en&file=16307</p>	
<p>Status of Implementation of EU Environmental Laws in Italy</p> <p>(November 2006)</p>	<p>The content of the study report is based on the following points regarding the “Status of implementation of EU environmental laws in Italy”: status of implementation of environmental laws in Italy: a general overview; infringements of procedures undertaken against Italy and which sectors/policies/specific pieces of legislation pose the most problems in Italy.</p>
<p>http://www.europarl.europa.eu/activities/committees/studies/download.do?language=en&file=13167</p>	
<p>Environment and Innovation: New Environmental Concepts and Technologies and Their Implications for Shaping Future EU Environmental Policies</p> <p>(October 2006)</p>	<p>This report describes six emerging environmental concepts, which were selected during the scoping process and in particular at a meeting at the European Parliament in January 2006. The six environmental policy concepts are: ecological footprint, cradle-to-cradle, dematerialization, eco-sufficiency, transition management and vulnerability.</p>
<p>http://www.europarl.europa.eu/activities/committees/studies/download.do?language=en&file=12898</p>	
<p>Life: Activities and Functioning</p> <p>(September 2006)</p>	<p>This study highlights the value for money of various programmes and actions financed under LIFE, to emphasise whether funds dedicated to their implementation have produced/not produced/not sufficiently produced the expected quantitative and qualitative effects and to give orientations to the future programmes within LIFE + 2007-2013.</p>
<p>http://www.europarl.europa.eu/activities/committees/studies/download.do?language=en&file=9654</p>	
<p>Assessment of the EU Thematic Strategy on the Sustainable Use of Natural Resources</p> <p>(September 2006)</p>	<p>The content of the study report was based on ten key questions addressed by the European Parliament regarding “The EC Thematic Strategy on the Sustainable Use of Natural Resources” (TSURE), Communication COM 2005/670 adopted by the European Commission (EC) on 21 December 2005.</p>
<p>http://www.europarl.europa.eu/activities/committees/studies/download.do?language=en&file=12981</p>	

<p>Proposed Air Quality Directive: Assessment of the Environmental Impact of Parliament's Amended Proposal</p> <p>(September 2006)</p>	<p>This briefing considers three proposals for future European air quality legislation. It briefing reviews the environmental impacts, costs and benefits of three proposals for future European air quality legislation, as well as the practicalities of meeting the proposed limit and target values, such as through existing legislation.</p>
<p>http://www.europarl.europa.eu/activities/committees/studies/download.do?language=en&file=13171</p>	
<p>Climate Change and Natural Disasters: Assessment of EU Measures to Tackle Forest Fires, in Particular the Contribution Made by Forest Focus</p> <p>(June 2006)</p>	<p>This study presents a short overview of the varying levels of contribution that the EC Forest Focus Regulation, which applies to the period 1 January 2003-31 December 2006, has made in tackling forest fires.</p>
<p>http://www.europarl.europa.eu/activities/committees/studies/download.do?language=en&file=12997</p>	
<p>Marine Thematic Strategy</p> <p>(May 2006)</p>	<p>This briefing considers the following issues relating to the TS: the adequacy of the proposal with reference to marine conventions, emissions from marine and land sources, integration with the CFP, ICZM and marine protected areas, the degree to which it will deliver environmental benefits, a comparison with an earlier draft produced by DG Environment, a consideration of how endocrine disruptors have been taken into account the implications of the proposed use of comitology; and the use of the Commission impact assessment.</p>
<p>http://www.europarl.europa.eu/activities/committees/studies/download.do?language=en&file=12992</p>	
<p>Reducing the Impact of Aviation on Climate Change - Economic Aspects of Inclusion of the Aviation Sector in the EU Emissions Trading Scheme</p> <p>(March 2006)</p>	<p>This paper reflects the results of two studies (CE Delft, 2005 and ICF, 2006) analysing the effects of growth in international aviation for the EU ETS in any economic detail. The issues covered are those focusing on economic impacts of specific aspects of system design.</p>
<p>http://www.europarl.europa.eu/activities/committees/studies/download.do?language=en&file=12885</p>	
<p>The Thematic Strategy on Air Pollution</p> <p>(March 2006)</p>	<p>Thematic Strategy sets out actions that it claims will reduce the number of premature deaths in 2020 by 140,000 compared to 2000. Accompanying the Strategy is a proposal for a Directive. It proposes that the air quality framework Directive be merged with its first three daughter Directives and the Decision on the exchange of air quality information into one piece of legislation.</p>
<p>http://www.europarl.europa.eu/activities/committees/studies/download.do?language=en&file=13001</p>	
<p>The Adequacy of EU Action on Flood Protection, Focusing on the European Commission's Recent Proposal</p> <p>(March 2006)</p>	<p>Flooding is probably the number one cause of economic losses from a natural event, and no region is safe from being flooded. In order to be better equipped to handle such disasters in the future, the European Commission has proposed a new directive on the assessment and management of floods.</p>
<p>http://www.europarl.europa.eu/activities/committees/studies/download.do?language=en&file=12985</p>	

<p>Assessment of Key Issues Likely to Emerge at the COP-MOP Meeting on Biodiversity/Biosafety to be Held in March 2006 in Curitiba/Brazil</p> <p>(February 2006)</p>	<p>This Policy Brief gives an insight into the key issues likely to emerge at the eight meeting of the Conference of the Parties (COP 8) to the Convention on Biological Diversity (CBD) and the third meeting of the Conference of the Parties serving as Meeting of the Parties to the Cartagena Protocol on Biosafety (COP/MOP 3) to be held in March 2006, in Curitiba, Brazil.</p>
<p>http://www.europarl.europa.eu/activities/committees/studies/download.do?language=en&file=12991</p>	
<p>Climate change and natural disasters : scientific evidence of a possible relation between recent natural disasters and climate change</p> <p>(January 2006)</p>	<p>The devastating impact of recent natural disasters indicates that mankind is vulnerable to extreme weather events. This study underlines the scientific link between disasters and Climate Change and the EU response to Climate Change disaster risks. The key question is how do we reduce our vulnerability and prepare to cope with impacts?</p>
<p>http://www.europarl.europa.eu/activities/committees/studies/download.do?language=en&file=22888</p>	
<p>Ban on Leaded Batteries: Analysis of an Amendment to Article 4 in the Council Common Position For Adopting A Directive On Batteries And Accumulators And Waste Batteries And Accumulators And Repealing</p> <p>(November 2005)</p>	<p>This study was commissioned to provide additional information to the Environment Committee to assist with the decision on whether to support a ban on portable batteries with a lead content over 40ppm. It includes data on the portable battery market, the lead content of the different types of battery, the types of batteries that would be affected by a ban, the availability of substitutes and whether there are grounds for exemptions.</p>
<p>http://www.europarl.europa.eu/comparl/envi/pdf/externalexpertise/ieep_6leg/batteries.pdf</p>	
<p>A users' guide to biodiversity indicators</p> <p>(November 2004)</p>	<p>Following the adoption of the 2010 target at global, regional and EU levels, progress has been made in agreeing core sets of indicators for reporting and to support the achievement of the 2010 target. Globally, within the Convention on Biological Diversity (CBD), eight biodiversity indicators are considered ready for immediate testing while another 13 require further development.</p>
<p>http://www.europarl.europa.eu/comparl/envi/pdf/externalexpertise/easac/biodiversity_indicators.pdf</p>	
<p>Job Creation Potential of Clean Technologies</p> <p>(October 2004)</p>	<p>This study analyses job creation potential of clean technologies. Economic areas were identified which are characterised by a strong impact of environmental policies. For each sector the study analyses the national backgrounds within the European Union and recent policy developments on the national and European level.</p>
<p>http://www.europarl.europa.eu/comparl/envi/pdf/externalexpertise/ieep/job_creation_clean_technology.pdf</p>	
<p>Impact Assessment</p> <p>(April 2004)</p>	<p>The systematic assessment of the significant likely impacts of a legislative or policy proposal is an acknowledged cornerstone of better regulation, and impact assessment (IA) procedures have now been established in many countries. There are many forms of impact assessment. Sustainability Impact Assessment (SIA) seeks to assess likely future effects of measures over a broad range of economic, environmental and social impacts; seeks identify 'win-win' situations, or where these are not possible, clarify trade-offs between competing priorities; and is as much concerned with calculating long-term environmental and social benefits as with short term economic costs.</p>
<p>http://www.europarl.europa.eu/comparl/envi/pdf/externalexpertise/ieep/impact_assessment_brief.pdf</p>	

<p>Briefing on the European Commission Communication on an action plan for stimulating technologies for sustainable development</p> <p>(April 2004)</p>	<p>The Environmental Technologies Action Plan (ETAP) is designed to promote the development and the introduction into service of new sustainable technologies. It seeks to remove barriers to uptake, to ensure that the EU has a leading role in the development of 'clean' technologies globally and to engage with stakeholders in delivering its aims.</p>
<p>http://www.europarl.europa.eu/comparl/envi/pdf/externalexpertise/easac/environmental_technologies.pdf</p>	
<p>Briefing on the European Commission Proposal for a Directive on the protection of groundwater against pollution</p> <p>(January 2004)</p>	<p>This proposal is for a Daughter Directive to the Water Framework Directive to establish criteria for the assessment of good chemical status and for determining trends in groundwater throughout member states.</p>
<p>http://www.europarl.europa.eu/comparl/envi/pdf/externalexpertise/easac/groundwater.pdf</p>	
<p>Prospects for the Implementation of Selected New and Future EU Environmental Legislation in the Acceding Countries</p> <p>(January 2004)</p>	<p>This brief examines the prospects for implementation of the emissions trading Directive (2003/87) and proposals on an amended directive on packaging and packaging waste, on the management of waste from the extractive industries, on an amended bathing water directive, an amended detergents regulation and on an amended groundwater directive in the Acceding Countries.</p>
<p>http://www.europarl.europa.eu/comparl/envi/pdf/externalexpertise/ieep/enlargement_acquis_2_brief.pdf</p>	
<p>Linking CDM & JI with EU Emission Allowance Trading</p> <p>(January 2004)</p>	<p>The Clean Development Mechanism (CDM) and Joint Implementation (JI) are two of the so-called flexible mechanisms of the Kyoto Protocol designed to allow its parties flexibility in achieving their quantified emission limitation and reduction commitments. On 23 July 2003 the Commission of the European Communities proposed a Directive linking CDM & JI on the one side and EU emission allowance trading on the other.</p>
<p>http://www.europarl.europa.eu/comparl/envi/pdf/externalexpertise/ieep/flexible_mechanisms_brief.pdf</p>	
<p>The Fourth Air Quality Daughter Directive: Impacts and consequences of mandatory limit values</p> <p>(January 2004)</p>	<p>The European Commission has presented a proposal for a Directive relating to arsenic, cadmium, mercury, nickel and polycyclic aromatic hydrocarbons (PAHs) in ambient air. This proposal does not contain any mandatory limit values for the concentrations of the pollutants. This study assesses the impacts and consequences related to the EP tabled amendments which would introduce such limit values in the proposal for a Directive.</p>
<p>http://www.europarl.europa.eu/comparl/envi/pdf/externalexpertise/ieep/air_quality_4th_daughter_directive_brief.pdf</p>	
<p>Progress in the Implementation of Five Environmental Directives in the Acceding Countries</p> <p>(December 2003)</p>	<p>This brief examines the current state of implementation of the urban waste water treatment (UWWT) Directive (91/271), large combustion plant (LCP) Directive (2001/80), solvent emissions Directive (1999/31), landfill Directive (1999/13) and IPPC Directive (96/61) in the Acceding Countries. It reviews the current state of transposition, aspects of practical implementation, investments required and administrative capacity for enforcement.</p>
<p>http://www.europarl.europa.eu/comparl/envi/pdf/externalexpertise/ieep/enlargement_acquis_brief.pdf</p>	

<p>The Proposed Directive on the Protection of Groundwater Against Pollution</p> <p>(December 2003)</p>	<p>The European Commission's proposal for a Directive on the protection of groundwater against pollution aims at providing criteria for assessing 'good groundwater chemical status', for the identification of 'significant and sustained upward trends' and the definition of 'starting points for trend reversals'. It seeks to ensure the continuation of groundwater protection against indirect discharges beyond 2013, when the existing groundwater Directive (80/68) will be repealed.</p>
<p>http://www.europarl.europa.eu/comparl/envi/pdf/externalexpertise/ieep/groundwater_brief.pdf</p>	
<p>Briefing on the European Commission proposal for a Regulation on certain greenhouse gases</p> <p>(November 2003)</p>	<p>The Commission sets out the case for action within the European Union on a number of important environmental pollutants that contribute to global warming. It contains proposals for reducing emissions through a number of specific prohibitions and a general provision for reducing uncontrolled release.</p>
<p>http://www.europarl.europa.eu/comparl/envi/pdf/externalexpertise/easac/greenhouse_gases.pdf</p>	
<p>Briefing on the European Commission Proposal for a Regulation on maximum residue levels of pesticides in plant and animal products.</p> <p>(November 2003)</p>	<p>The Commission proposes a simplification of the current arrangements for securing pesticide safety within the EU. It proposes unified arrangements for setting safety levels and transfers responsibility for them from Member States to the European Food Safety Authority (EFSA).</p>
<p>http://www.europarl.europa.eu/comparl/envi/pdf/externalexpertise/easac/mrl.pdf</p>	
<p>Briefing on the European Commission Proposal for a Fourth Daughter Directive to the Air Framework Directive</p> <p>(November 2003)</p>	<p>The Commission sets out the case for action on a number of important environmental pollutants within the EU and suggests target levels for their atmospheric concentration. The scientific rationale for the proposal was provided by a series of Technical Working Groups each chaired by experts from the member states. In preparing the proposal, the Commission consulted widely, including with the World Health Organisation (WHO).</p>
<p>http://www.europarl.europa.eu/comparl/envi/pdf/externalexpertise/easac/fourthairframeworkdaughterdirectivereport-final.pdf</p>	
<p>Ad hoc Report on Chemicals: Comparative Analysis of REACH and other International Approaches</p> <p>(November 2003)</p>	<p>In response to the recognised weaknesses in addressing 'existing chemicals' that make up the bulk of the chemical substances on the market, and building on national inputs, the European Commission published, in February 2001, a White Paper which presented a new regulatory system for the 'Registration, Evaluation and Authorisation of Chemicals' (REACH).</p>
<p>http://www.europarl.europa.eu/comparl/envi/pdf/externalexpertise/ieep/chemicals_brief.pdf</p>	
<p>Implementation of the IPPC Directive (96/61): Analysis and Progress of issues</p> <p>(October 2003)</p>	<p>The Integrated Pollution Prevention and Control (IPPC) Directive (92/61/EC) required formal compliance by 30 October 1999, applying to new installations by that date and to existing installations by 30 October 2007. The Directive requires an integrated approach to the environmental protection of air, water and land, through the application of Best Available Techniques (BAT), establishing operating conditions (e.g. emission limit values) in permits.</p>
<p>http://www.europarl.europa.eu/comparl/envi/pdf/externalexpertise/ieep/ippc_brief.pdf</p>	

<p>Incineration as recovery and disposal of waste: Analysis and interpretation of the judgements of the European Court of Justice C-458/00 and C-228/00</p> <p>(October 2003)</p>	<p>At the beginning of 2003, the European Court of Justice (ECJ) issued two important judgements with regard to the interpretation of the Waste Shipment Regulation 259/93. Both rulings deal with the consideration of waste incineration as either a recovery operation, or as a disposal operation.</p>
<p>http://www.europarl.europa.eu/comparl/envi/pdf/externalexpertise/ieep/ecj_waste_rulings_brief.pdf</p>	

Briefing notes for delegations

<p>Environment situation in the Former Yugoslav Republic of Macedonia (FYROM)</p> <p>(October 2008)</p>	<p>The FYROM applied for membership to the European Union in 2004 and was granted the status of candidate country in 2005, but no date was specified for the start of the accession negotiations. Although, some progress has been reported, further significant implementation efforts are needed, especially in the areas of waste management, environmental monitoring and inspection.</p>
<p>http://www.europarl.europa.eu/activities/committees/studies/download.do?file=22775</p>	
<p>Key issues for the upcoming biodiversity and biosafety meetings in May 2008 (Bonn, Germany)</p> <p>(March 2008)</p>	<p>The briefing gives a short insight into a number of key issues likely to emerge at both events. Additionally, it provides a short summary on the main issues discussed in the previous COP and COP-MOP meetings in 2006 in Curitiba, Brazil. In addition, it outlines some recommendations for specific issues.</p>
<p>http://www.europarl.europa.eu/activities/committees/studies/download.do?file=19951</p>	

DIRECTORATE-GENERAL FOR INTERNAL POLICIES

POLICY DEPARTMENT ECONOMIC AND SCIENTIFIC POLICY **A**

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