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THE EUROPEAN UNION**



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Environment

Luxembourg, 28 June 2004

President

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10746/04 (Presse 203)

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Main Results of the Council

The Council:

- adopted a Regulation on the compilation and transmission of data on the government debt;
- decided to extend and amend the mandates of the EU's Special Representatives for the South Caucasus, the Middle East Peace Process, the African Great Lakes Region, Afghanistan and the former Yugoslav Republic of Macedonia;
- authorised the Commission to negotiate the draft European Convention on combating trafficking in human beings;
- approved the draft 2005 budget for Europol;
- adopted a Regulation establishing a framework for the production of Community statistics on the balance of payments, international trade in services and foreign direct investment;
- adopted a Regulation granting a derogation to the new Member States on the reference levels for fishing fleets,
- adopted a Decision on the signature and provisional application of the agreement on the Galileo and GPS satellite navigation systems.

The Council further reached political agreement on a draft Directive reducing the sulphur content of marine fuels and on a draft Directive concerning the management of bathing water quality.

CONTENTS¹

PARTICIPANTS..... 5

ITEMS DEBATED

SULPHUR CONTENT OF MARINE FUELS..... 7

BATHING WATERS 8

PREVENTION AND RECYCLING OF WASTE 9

SHIPMENTS OF WASTE..... 16

CHEMICALS (REACH) 17

MAIZE GENETICALLY MODIFIED..... 18

BIODIVERSITY - *Council conclusions* 19

WASTE FROM EXTRACTIVE INDUSTRIES 25

OTHER BUSINESS 26

OTHER ITEMS APPROVED

ENVIRONMENT

– European Environment Agency (EEA) 27

EXTERNAL RELATIONS

– EU - Ukraine Summit..... 29

– European Union Special Representatives* 29

– EU mission to support Georgian justice system 30

– Council extends measures in support of ICTY 31

¹

- Where declarations, conclusions or resolutions have been formally adopted by the Council, this is indicated in the heading for the item concerned and the text is placed between quotation marks.
- The documents whose references are given in the text are available on the Council's Internet site <http://ue.eu.int>.
- Acts adopted with statements for the Council minutes which may be released to the public are indicated by an asterisk; these statements are available on the abovementioned Council Internet site or may be obtained from the Press Office.

DEVELOPMENT CO-OPERATION

- ACP-EC Partnership Agreement - Sugar Protocol - Burkina Faso 31

JUSTICE AND HOME AFFAIRS

- Visas 32
- Trafficking in human beings..... 32
- Europol - 2005 budget 32

ECONOMIC POLICY

- Economic monitoring - Transmission of data on government debt..... 32
- Statistics 33

TRADE POLICY

- Anti-dumping - Vietnam - Ring binder mechanisms..... 33

TAXATION

- Savings tax directive - Date of application..... 33

ENERGY

- Nuclear safety - *Council conclusions** 35
- Slovenia* 37
- Estonia* 37

FISHERIES

- Reference levels 38
- Agreement with Greenland..... 38

INSTITUTIONAL AFFAIRS

- Budget - Convention..... 38
- European regulatory agencies - *Council conclusions* 38

APPOINTMENTS

- Economic and Social Committee 40

DECISIONS TAKEN BY WRITTEN PROCEDURE

- Telecommunications — EU-US Agreement GALILEO / GPS..... 40

PARTICIPANTS

The Governments of the Member States and the European Commission are represented as follows:

Belgium:

Ms Freya VAN DEN BOSSCHE

Federal Minister for the Environment, Consumer Protection and Sustainable Development
Minister for Town and Country Planning, and the Environment (Walloon Region)

Mr Michel FORET

Czech Republic:

Mr Tómas NOVOTNÝ

Deputy Minister for the Environment

Denmark:

Mr Hans Christian SCHMIDT

Minister for the Environment

Germany:

Mr Jürgen TRITTIN

Federal Minister for the Environment, Nature Conservation and Reactor Safety

Estonia:

Mr Olavi TAMMEMÄE

Deputy Minister for the Environment

Greece:

Mr Stavros KALOGIANNIS

State Secretary for the Environment, Regional Planning and Public Works

Spain:

Ms Cristina NARBONA RUIZ

Minister for the Environment

France:

Mr Serge LEPELTIER

Minister for Ecology and Sustainable Development

Ireland:

Mr Martin CULLEN

Mr Pat the Cope GALLAGHER

Minister for the Environment and Local Government
Minister of State at the Department of the Environment and Local Government

Italy:

Mr Alessandro PIGNATTI

Deputy Permanent Representative

Cyprus:

Mr Michael CONSTANTINIDES

Permanent Secretary, Ministry of Agriculture, Natural Resources and Environment

Latvia:

Mr Raimonds VEJONIS

Minister for the Environment

Lithuania:

Mr Arūnas KUNDROTAS

Minister for the Environment

Luxembourg:

Mr Eugène BERGER

State Secretary for the Environment

Hungary:

Mr István ÖRI

Administrative State Secretary, Ministry for the Environment and Water Management

Malta:

Mr George PULLICINO

Minister for Rural Affairs and the Environment

Netherlands:

Mr Pieter VAN GEEL

State Secretary for Housing, Planning and the Environment

Austria:

Mr Werner WUTSCHER

Secretary-General at the Austrian Federal Ministry of Agriculture, Forestry, Environment and Water Management

Poland:

Mr Krzysztof SZAMALEK

State Secretary, Ministry of the Environment

Portugal:

Mr Arlindo MARQUES DA CUNHA

Minister for Urban Areas, Regional Planning and the Environment

Mr Artur ROSA PIRES

State Secretary for the Environment and Regional Planning

Slovenia:

Mr Marko SLOKAR

State Secretary for International and European Affairs

Slovakia:

Mr László MIKLÓS

Minister for the Environment

Finland:

Mr Jan-Erik ENESTAM

Minister for the Environment

Sweden:

Ms Lena SOMMESTAD

Minister for the Environment

United Kingdom:

Ms Margaret BECKETT

Secretary of State for the Environment, Food and Rural Affairs

Mr Elliot MORLEY

Minister of State for the Environment

.....
Commission

Ms Margot WALLSTRÖM

Member

ITEMS DEBATED

SULPHUR CONTENT OF MARINE FUELS

The Council reached political agreement, by qualified majority, on a draft European Parliament and Council Directive aimed at applying to seagoing ships lower limits on the sulphur content of certain liquid fuels under Directive 1999/32/EC.

The Italian and Cyprus Delegations expressed their intention to vote against the draft Directive and the Swedish Delegation its intention to abstain.

The key aim of the proposed amendments to Directive 1999/32/EC is to extend its scope to all petroleum-derived liquid fuels used on board ships operating in Member States' waters. New rules should lead to a substantial reduction of sulphur dioxide emissions (over 500 000 tonnes per year).

The draft Directive would, in particular:

- remove existing derogations relating to marine gas oil;
- give effect to the 1.5 % sulphur limit applying within SO_x emission control areas agreed through the International Maritime Organization;
- apply the same limit to all passenger ships operating on regular services to or from Community ports;
- require ships at berth in Community ports to use fuel containing no more than 0.1 % sulphur;
- provide for the use of approved abatement technologies as an alternative to low-sulphur fuel.

The European Parliament delivered its first reading opinion in June 2003¹ and the Commission submitted an amended proposal in August 2003². Following today's agreement on the Articles of the proposed Directive, work will proceed with the examination of the preamble, with a view to the adoption of a common position, without further debate, at a forthcoming Council meeting. The common position is to be sent to the European Parliament with a view to its second reading.

¹ 9901/03.

² 12142/04.

BATHING WATERS

The Council unanimously reached political agreement on a draft European Parliament and Council Directive on the management of bathing water quality.

The Commission, accepting the draft text, submitted a statement for the Council's minutes committing itself to undertake a scientific investigation further to improve understanding of the health risks associated with bathing waters.

The proposal lays down provisions for the monitoring and classification of bathing water quality and provides for extensive information to the public, as well as for comprehensive management measures. It is aimed at replacing the existing Directive¹, in order to reflect scientific knowledge gained since its adoption in 1976. Moreover, it is intended to complement the Urban Wastewater Treatment and Nitrates Pollution from Agricultural Sources Directives.

It focuses on health risk for bathers, proposing a set of two microbiological classification parameters (intestinal enterococci and escherischia coli) relevant for compliance with its provisions. In order to ease the monitoring burden for Member States, it also proposes reduced monitoring frequencies if the bathing water quality proves to be constantly “good” (every two years) and “excellent” (every three years).

The Union’s Water Policy has recently been restructured with the adoption of the Water Framework Directive in 2000. The provisions of the proposed Directive are fully compatible with this new framework and coherent with the Union’s Sustainable Development Strategy, as well as with the 6th Environmental Action Programme.

The European Parliament delivered its first reading opinion in June 2003² and the Commission submitted an amended proposal in April 2004³. Following today's agreement on the Articles, work should proceed with the examination of the preamble, with a view to the adoption of a common position, without further debate, at a forthcoming Council's meeting. The common position is to be sent to the European Parliament with a view to its second reading.

¹ Directive 160/76/EEC (OJ L 31, 5.2.1976, pp. 1-7).

² 13464/03.

³ 8559/04.

PREVENTION AND RECYCLING OF WASTE

The Council adopted the following conclusions on the Commission Communication: "Towards a thematic strategy on the prevention and recycling of waste"¹:

"I. Introduction

The Lisbon Strategy and the Sustainable Development policies of the EU aim at promoting sustainable development that respects the carrying capacity of the environment and is characterised by highly eco-efficient economic growth with more and better jobs and greater social cohesion. Current efforts are focusing on the development of appropriate policies and strategies both in the context of furthering the objectives set in the 6th Environment Action Programme and, also, as part of the review of the Sustainable Development Strategy.

Waste prevention and recycling continues to be a challenge for all EU Member States. Total waste quantities are continuing to grow across Europe, and there has been only limited success in decoupling overall waste generation from economic growth. It was against this background that the Council, at its informal meeting in Waterford, Ireland on 4/16 May 2004, discussed the theme of new policy perspectives on natural resources and waste.

Europe's economy is based on transforming resources into products and services and growth could mean increasing resource use, not just in terms of material resources, but also in the use of environmental resources such as clean air, soil and water. To generate more wealth in an improving environment, it is necessary to ensure that the impacts which economic activities and the use of natural resources exert on the environment are reduced, through material substitution, re-use and repair, recycling, energy recovery and eco-efficiency. Measuring these environmental impacts can be difficult, and impacts may occur at different stages of the life cycle and in different forms. Therefore, it is necessary to make significant efforts to improve the quality of information in this area by a strategic European capacity for the gathering and pooling of knowledge about resource use and impacts and related policy assessment, in order to decide which impacts to tackle and to develop options on how they can be reduced in a growing economy.

¹ 10113/04.

It is against the background of these interlinked factors that the Commission has, in the past year, published three Communications: on *Preventing and Recycling Waste* (COM (2003) 301, May 03), *Integrated Product Policy* (COM (2003) 302, June 03), and *Sustainable Use of Natural Resources* (COM (2003) 572, October 03). The Resources Strategy can provide a knowledge base which can be used to assess options for improvement. Integrated Product Policy, through seeking to reduce the environmental impacts from products throughout their life cycle, has the potential to be a very powerful policy tool in relation to resource use and waste prevention. In addition, the waste prevention and recycling strategy can play a major part in reducing associated environmental impacts. Taken together, the three Communications provide a coherent, modern and progressive framework to underpin effective action towards meeting the vision and commitments on sustainable consumption and production agreed by Member States and the EU collectively at the World Summit on Sustainable Development (WSSD) in Johannesburg in 2002. In addition, clarity in relation to the legal framework governing the waste sector, and its full implementation, are of crucial importance.

Therefore, the Council -

1. *welcomes the Commission Communication, Towards a Thematic Strategy on the Prevention and Recycling of Waste, reaffirms its support for the emphasis being placed by the Commission on the close linkages between the Strategy and those on Integrated Product Policy and Sustainable Use of Natural Resources which together can help to meet the EU's overarching WSSD commitment to promote more sustainable patterns of consumption and production;*
2. *invites the Commission to bring forward the Waste and Natural Resources strategies in tandem by June 2005;*
3. *calls on the Commission to elaborate further on how these links can be exploited and managed to ensure an appropriate level of co-ordination with regard to the strategies themselves and with other tools such as IPPC and REACH as well as with relevant EU policy and legislation with the purpose of minimising the overall environmental impact of waste management and natural resource use;*
4. *calls on the Commission to bring forward a proposal of a revision of certain aspects of the Waste Framework Directive in order, inter alia, to clarify the distinction between waste and non-waste, when waste ceases to be waste and the distinction between recovery and disposal and develop adequate criteria for the further elaboration of Annexe II A and II B of the Framework Directive, having regard to the guiding principle of the waste hierarchy;*
5. *highlights the priority of achieving full and effective implementation of the existing corpus of EU legislation in relation to waste.*

II. Role of the Strategy on Preventing and Recycling Waste

A clearer understanding of the consumption and production processes underlying waste generation is necessary to facilitate the development of technically and economically efficient, and environmentally effective, waste prevention and minimisation techniques. As consumer society becomes more prosperous, demand for products will continue to grow. Coupled with decreasing product lives, this generates increasing quantities of end-of-life product wastes and associated mining and manufacturing wastes. Many products are becoming more and more complex using a wide variety of substances, which brings the potential further to exacerbate the risks from wastes to health and the environment. Waste prevention must become a more systematic consideration in eco-design, within the framework of an integrated product policy and based on life cycle thinking. Overall, better knowledge, analysis and research are necessary to develop effective policies which are targeted towards achieving a more holistic approach to natural resource use and waste prevention within the consumption and production cycle. The potential of re-use initiatives also requires further exploration.

Therefore, the Council –

1. *acknowledging the status of waste prevention and minimisation as the most favoured options in waste management, welcomes the overall thrust of the Communication's waste prevention approach;*
2. *recognising the importance of extending product life, the potential of appropriate re-use initiatives such as deposit-return schemes, markets for second-hand products and associated employment opportunities, calls on the Commission to give recognition to these aspects of waste prevention/minimisation;*
3. *recognises the key role of a life cycle approach and the need to focus on the minimisation of environmental impacts in overall terms;*
4. *highlights the need to address production processes and product life cycles with a strong focus on the sustainable use of natural resources and energy and the role that waste prevention, re-use and recycling can play in avoiding or reducing resource impacts;*
5. *emphasises the key role of education and awareness initiatives in supporting waste prevention and recycling, particularly through commitments on the part of the public and private sectors and consumers;*

6. *acknowledges the critical role the new knowledge base recognised as necessary in the delivery of the Natural Resources Strategy will play and urges the Commission to proceed expeditiously with the necessary research and database development;*
7. *concludes that in order to achieve optimum outcomes, waste prevention and recycling must be part of a broader waste management strategy, including elements in relation to energy recovery and landfill of residual waste;*
8. *calls on the Commission to also address the minimisation of the quantity of wastes for disposal in the strategy;*
9. *re-affirms the Council conclusions of 25 June 2002 requesting the Commission to bring forward as soon as possible the Thematic Strategy on Soils and legislative proposals on compost and sewage sludge, together with standards as appropriate;*
10. *highlights the importance of existing initiatives such as the IPPC Directive (in terms of quantitative prevention) and REACH (with respect to hazardous waste prevention);*
11. *emphasises the significance of product design and selection of materials and substances in waste prevention and in reducing the associated consumption of energy from non-renewable resources and highlights in this respect the importance of eco-design initiatives;*
12. *recognises the potentially useful role of waste prevention measures and emphasises the importance of an information exchange on this at EU level;*
13. *highlights the need for further examination of issues relating to the development of appropriate and meaningful waste prevention targets and instruments and calls upon the Commission to make further examination of these aspects;*
14. *emphasises the importance of effective implementation of the Waste Statistics Regulation, in terms of ensuring sufficiently robust data and evaluating the practical applicability of the European Waste List with a view to further improvement;*
15. *underlines that in order to assess the impact of natural resources use, proper indicators at EU level should be developed;*

III. Materials-Based Approach

A. *Recycling*

While the development of producer responsibility initiatives for various waste streams is a major component of EU waste policy and has delivered high performance levels, these initiatives deal only with a small proportion of total waste. The Communication recognises that there is a need to build on the experience of producer responsibility with regard to the contribution it can make to waste prevention and the reduction of negative environmental impacts. Materials-based recycling targets are already a feature of individual waste stream recycling initiatives and the Communication envisages complementary roles for existing waste streams and the newly evolving materials-based approaches.

Extended Producer Responsibility involves the assignment of increased responsibility to the producer and provides producers with a direct financial incentive to incorporate environmental considerations in the design of products. It seeks to integrate price signals related to the environmental characteristics of products and production processes throughout the product chain. It deals not just with the waste phase, but addresses upstream issues in relation to resource selection and product design; it also encourages designers to select materials that are readily amenable to reuse or recycling.

Therefore, the Council -

1. *recognises the positive results achieved through producer responsibility initiatives within individual sectors and underlines the need to undertake the necessary analysis when introducing further such initiatives in other sectors;*
2. *acknowledging the potential role which the wider use of materials-based recycling targets might play, concurs with the Commission's view that more efficient, less costly options to achieve higher recycling rates need to be pursued in the expanded Union;*
3. *considers that a materials-based approach can complement the existing waste-stream approach, and urges the Commission further to consider how this complementarity might best be achieved.*

B. *Common Recycling Standards*

The development of mandatory requirements for waste facilities and the treatment of specific waste materials at the EU level, in addition to the existing provisions in EU law, can contribute to the creation of a high level of environmental protection across the Community, assist in the creation of a level playing field for recycling and help ensure that the development of an economically viable internal market for recycling would not be hindered.

IPPC and the associated Best Available Techniques (BAT) approach encourage cleaner technologies and waste minimisation, and endeavour to achieve an appropriate balance between environmental benefits and corresponding costs. The use of waste as a raw material is already routine in many industrial sectors (iron and steel, non-ferrous metals, glass, cement) and BAT Reference Notes for these already deal with waste to varying degrees.

Therefore, the Council –

1. *concurs with the Commission in relation to the need to develop a Community level playing field through the application of common standards in certain areas, as appropriate, related to recycling in order to increase the quality of recycling, including in relation to secondary materials and, noting the positive stakeholder support for such standards, calls on the Commission to bring forward, as appropriate, proposals for such standards for certain waste types and certain recycling facilities as soon as practicable based on further examination in the Waste strategy and taking into account existing Community legislation and legislation in the Member States;*
2. *considers that extension of IPPC to more waste management activities should be evaluated on the basis of the characteristics of the specific sector and with special focus on elements leading to prevention and recycling of waste and calls on the Commission to undertake an assessment of the optimum approach to this;*
3. *calls on the Commission to review the BAT reference notes for those industrial sectors which use waste as a raw material with a view to determining whether further elaboration is required.*

C. *Recycling Markets*

There is also a need to strengthen the recycling market through removing barriers, including technical and economic barriers, to its effective operation, encouraging innovation and new technologies, and reducing uncertainties in the recycling market.

Therefore the Council –

1. *acknowledges the need to stimulate the demand for recycled products and calls on the Commission to give appropriate recognition to this aspect of waste recycling;*
2. *recognises that green procurement can significantly contribute to increased waste recycling, expanding the demand for recycled materials and goods.*

IV. Market-Based Instruments/Pay As You Throw

Economic instruments e.g. landfill levies are widely used in the EU and play an important role in giving effect to the polluter pays principle. However, they are often designed and implemented on a case-by-case basis and do not always achieve the desired objectives e.g. internalisation of costs and effective behavioural change and can lead to market distortions. Nevertheless, case studies on levies which are targeted and well designed, taking account of local factors, show that even quite small changes in price/cost can send strong signals as to desired behaviour.

Therefore, the Council –

1. *while recognising that there may be possibilities for developing criteria for closer alignment of economic instruments, emphasises that decisions on the use of such instruments is a matter of Member State competence;*
2. *considers that more knowledge is needed on the effective implementation of levies, including landfill levies, and emphasises the importance of an information exchange on this aspect;*
3. *considers that the potential of Pay as You Throw schemes is optimised when operated in conjunction with segregated recyclable collection services;*
4. *has reservations regarding applying PAYT at the Community level and considers that where such schemes are developed, this should take place at the regional/local level in order to ensure that they can be tailored to local circumstances and potential negative impacts can be avoided."*

SHIPMENTS OF WASTE

A political agreement on a draft Regulation, aimed at replacing Regulation (EEC) No 259/93¹, related to shipment of waste could not be finalised, since one delegation maintained a general scrutiny reservation.

Because of differing views between the Commission and the delegations on the legal basis², decisions on any modification of the proposal require unanimity³.

The European Parliament delivered its first reading opinion on 19 November 2003⁴ and the Commission submitted an amended proposal on March 2004⁵.

The proposal is aimed at transposing into Community legislation an OECD Decision⁶ and the revised Basel Convention⁷, both on the control of transboundary movements of waste, whilst addressing problems encountered in the application of the existing Community legislation on the supervision and control of shipment of waste.

¹ Replacing Regulation (EEC) No 259/93 (OJ L 30, 6.2.1993, p. 1).

² Commission proposes Articles 133 and 175(1). Delegations consider that Article 175(1) is the adequate legal basis.

³ See Article 250 of the Treaty.

⁴ 14834/03.

⁵ 7401/04.

⁶ OECD Decision C (2001) 107 FINAL of May 2002.

⁷ Basel Convention of 22 March 1989.

CHEMICALS (REACH)

The Council held a policy debate on the proposals for a Regulation and for a Directive on registration, evaluation, authorisation and restriction of chemicals and on the establishment of a European Chemicals Agency, with a view to giving political guidance for continued work of the incoming Presidencies.

Delegations were invited to answer to the following indicative questions suggested by the Presidency:

- whether, having regard to the relative roles and contributions of the **Authorisation and Restrictions** processes for the management of risks to human health and the environment from substances of very high concern, and the inter-relationship between these two processes, there is merit in exploring the scope for improving the workability of the proposal so that the underlying objectives are met in a timely and resource-efficient manner;
- whether the Council considers that the Commission proposal covers the essential elements to encourage **substitution** for substances of very high concern so as to reduce the risks to human health and the environment while stimulating innovation and enhancing the competitiveness of European industry;
- whether the Council considers that the Commission proposal provides adequately for the **quality of data** provided by Industry, or that there is merit, in the ongoing examination of REACH, in investigating the need for additional measures.

The main goals of the Community's chemicals policy are to avoid chemical contamination of air, water, soil and buildings to prevent damage to biodiversity and to improve the health and safety of workers and the general public. The REACH proposal is aimed at preserving a sensitive balance between environmental benefits and effects of regulation on the competitiveness of European industry and on the functioning of the internal market.

GENETICALLY MODIFIED MAIZE

The Council examined the Commission proposal for a Decision authorising the placing on the market of a maize product genetically modified for glyphosate tolerance (*Zea mays* L line NK603)¹, a qualified majority being required for adopting or rejecting the proposal.

The Presidency took note that no qualified majority was attained to adopt or to reject the proposal. In the absence of a Council decision, the Commission will be able to adopt its proposal.

A notification concerning the placing on the market of *Zea mays* L. line NK603, which are grains of maize with increased tolerance to the herbicide glyphosate, was submitted by Monsanto S.A. to the competent authority of Spain.

In November 2003, the European Food Safety Authority gave an opinion indicating that genetically modified maize NK603 was safe and that its placing on the market for food feed or processing was unlikely to have an adverse effect on human or animal health or on the environment².

Based on this opinion, in December 2003, the Commission submitted to the regulatory Committee³ a draft decision authorising the placing on the Community market of this product for a duration of 10 years. The Committee was unable to give an opinion, since no qualified majority was reached.

In accordance with the comitology procedure⁴, the Commission therefore submitted a proposal for a Council Decision, dated 30 March 2004, which gave the Council a period of three months, expiring on 30 June 2004, to take a decision.

According to the Commission proposal, *Zea mays* L. line NK603 may be used as any other maize, with the exception of cultivation and uses as or in food, and may be placed in the market subject to the conditions laid down in its article 3 (period of validity of 10 years; labelling conditions, authorised identifier, etc.).

¹ 8235/04.

² See http://www.efsa.eu.int/science/gmo/gmo_opinions/176_en.html

³ Established under Article 30 of Directive 2001/18/EC.

⁴ See Article 5 of Council Decision 1999/468/EC (OJ L 184/23, 17.7.1999).

BIODIVERSITY - Council conclusions

The Council adopted the following conclusions on "Halting the loss of biodiversity by 2010":

"RECALLING the objective established at Gothenburg by the European Council to halt biodiversity loss by 2010; and RECALLING the priority actions identified in the 6th Environmental Action Programme;

RECOGNISING the continuing alarming rate of overall loss of biodiversity in the EU and at global level and that this loss threatens to undermine the achievement of the Lisbon agenda, the environmental, economic and social goals of the EU, as well as the global Millennium Development Goals;

RECALLING the CBD target to significantly reduce the rate of biodiversity loss by 2010, which the World Summit on Sustainable Development (WSSD) endorsed;

CONVINCED that biodiversity has a major contribution to make to sustaining life, sustaining livelihoods, to poverty eradication, to the promotion of human health and to sustainable development;

RECALLING the Council contribution to the Spring European Council in 2004, in the matter of cross-cutting issues such as climate change, energy, transport, and international sustainable development commitments in general, and biological diversity, including biodiversity indicators, in particular;

NOTING that the Council contribution emphasised that implementation of WSSD commitments must continue to have a high priority and be integrated into all relevant internal and external policies of the EU;

ALSO RECALLING the Council Conclusions of 22 December 2003 on the seventh meeting of the Conference of Parties (COP 7) to the Convention on Biological Diversity (CBD) and the first Meeting of Parties (MOP 1) to the Cartagena Protocol on Biosafety to the CBD;

WELCOMING the entry into force of the Cartagena Protocol on Biosafety;

NOTING the results of the EPBRS meeting held in Killarney^{*}, and the Stakeholders Conference held in Malahide^{**};

these conclusions are without prejudice to the position of the Council on the Commission Communication on Building our common Future: Policy challenges and Budgetary means of the Enlarged Union 2007-2013 and related legislative proposals;

THE COUNCIL:

A. The internal dimension

1. TAKES NOTE OF the "Message from Malahide" setting out priority objectives and targets in order to meet the overall 2010 targets, as an outcome of broad stakeholder consultations;
2. URGES the Commission to submit, as early as possible in 2005, a Report to Council and Parliament on its assessment of the implementation, effectiveness and appropriateness of each of the objectives and targets set in the European Community Biodiversity Strategy and Action Plans taking into account the consultative process now concluded and, notably, the "*Message from Malahide*";
3. WELCOMES the 'first set of headline biodiversity indicators' as outlined in Annex 1 to the "*Message from Malahide*" and urges the Commission further to develop, test and finalise this set by 2006 having regard to their evolving nature;
4. RECALLS the need to include, as soon as possible and not later than the next review of the Sustainable Development Strategy, an indicator on biodiversity in the list of structural indicators, as called for in particular in the Council conclusions on Structural Indicators of 8 December 2003;
5. CALLS UPON the Commission to take the biodiversity objectives fully into account when reviewing this Strategy and when assessing the mid-term review of the Lisbon Strategy;
6. WELCOMES the Killarney Recommendations for Research Priorities, and the "*Killarney Declaration*", which STRESSES inter alia that knowledge is essential for the conservation and sustainable use of biodiversity and the crucial role the European Research Area/7th Framework Programme must play in supporting the achievement of the biodiversity targets;

* European Platform for Biodiversity Research Strategy (EPBRS) meeting on '*Sustaining Livelihoods and Biodiversity – Attaining the 2010 targets in the European Biodiversity Strategy*' at Killarney, Ireland, 21-24 May 2004.

** Stakeholders' Conference on '*Biodiversity and the EU – Sustaining Life, Sustaining Livelihoods*' at Malahide, Ireland, 25-27 May 2004.

7. REITERATES the need for Member States and the Commission to consider measures that would strengthen further, through appropriate means including financing, the integration of biodiversity concerns into the policies and programmes of the key sectors relevant to biodiversity, including environment, agriculture, fisheries, forestry, regional and spatial planning, transport and energy, research, tourism, trade and economic and development cooperation;
8. Taking into account the principle of subsidiarity, STRESSES the importance of establishing the Natura 2000 network and implementing the necessary technical and financial instruments and measures required for its full implementation and for the protection, outside the Natura 2000 areas, of species protected under the Habitats and Birds Directives; RECALLS that the Sixth Environmental Action Programme identifies these measures as priority actions;
9. Insofar as the Habitats Directive provides, inter alia, that a contribution by means of Community co-financing for the designated sites shall be provided for within the limits of the resources made available under the Community's decisions, NOTES that the Message from Malahide identified, inter alia, the importance of Community co-financing for the NATURA 2000 network within a thriving wider environment as an important step for achieving the objective of halting the loss of bio-diversity by 2010; LOOKS FORWARD to debating the Commission's Communication on the financing of the NATURA 2000 network;
10. EMPHASISES the importance of monitoring, evaluating and reporting on progress towards the 2010 targets, and that it is absolutely vital to communicate biodiversity issues effectively to the general public and to decision-makers in order to provoke appropriate policy responses;
11. URGES Member States:
 - to reinforce implementation of the relevant instruments available for achieving the three objectives of the CBD provided under the reformed Common Agricultural Policy (CAP) and Common Fisheries Policy (CFP) as well as within Cohesion Policy and in economic and development co-operation and to support strengthening biodiversity-related instruments within the future rural development policy;
 - to ensure the full and timely implementation of all relevant environmental legislation;
 - to provide enhanced support for the development and monitoring of biodiversity indicators;
 - to provide enhanced support for biodiversity research;
 - to ensure that, in accordance with Article 6 of the CBD, strategies such as National Biodiversity Strategies and Action Plans are focussed, and to have reporting arrangements in place in order to achieve the 2010 targets; and

- to promote the integration of biodiversity considerations in their National Sustainable Development Strategies, national development plans, national budgets, and Poverty Reduction Strategy Papers (PRSPs);
 - 12. CALLS upon key stakeholders to commit themselves to the 2010 targets and to work in partnership with Member States and the Commission to achieve these targets;
 - 13. WELCOMES the Countdown 2010 initiative, launched by a partnership of civil organisations, including the Irish Presidency, the Commissioner for the Environment and the World Conservation Union (IUCN) and other key actors at the Malahide Conference, as an important sensitising initiative to the significance of biodiversity loss across the globe and as a means to act as an independent monitor of progress towards the 2010 targets and ENCOURAGES Member States, Commission and civil society to support the Countdown 2010 initiative;
 - 14. ACKNOWLEDGES the need to address the EU's impact on third countries' biodiversity as well as the EU's particular responsibility in contributing to the achievement of the 2010 targets at the Pan-European and global levels.
 - 15. EMPHASIZES the need for urgent action to eliminate imports of illegally harvested timber into the EU as a contribution to fostering sustainable development by halting the loss of biodiversity and protecting the environment; STRESSES the need to continue work on implementation of the Community's Action Plan on Forest Law Enforcement, Governance and Trade (FLEGT); URGES the Commission to present its reports and proposals on the issue without delay, taking account inter alia of existing multilateral mechanisms, as requested in the Council's October 2003 Conclusions on the FLEGT Action Plan.
- B. The international dimension: Outcome of the seventh ordinary meeting of the Conference of the Parties (COP 7) to the Convention on Biological Diversity (CBD) and the first meeting of the Parties (MOP 1) to the Cartagena Protocol on Biosafety*
- 16. STRONGLY WELCOMES the outcome of COP 7 and MOP 1;
 - 17. FURTHER WELCOMES that the Kuala Lumpur Declaration, which was adopted by consensus by Ministers who attended the High Level Segment of COP 7 and MOP 1, reflects the EU priorities on protected areas, on indicators and on the implementation of the Cartagena Protocol;
 - 18. SUPPORTS the focus at COP 7 on the achievement of the 2010 target of significantly reducing the rate of biodiversity loss and on the need to move from the policy development phase to concrete implementation; in this respect WELCOMES the agreement at COP 7 on a core set of biodiversity indicators to be tested, identified or developed in order to monitor the progress of the CBD towards the 2010 target;

19. RECOGNISES the importance of broadening the financing basis for implementation, from both the public and the private sector, and elaborating innovative strategies such as self-financing and refocusing actions;
20. URGES the Commission and Member States to implement the new Programmes of Work adopted at COP 7 on Protected Areas, including actions regarding marine and coastal protected areas, Mountain Biodiversity, and Technology Transfer, as well as the other decisions of COP 7 and MOP 1;
21. WELCOMES the initiative of the Commission to come forward with its Communication to the European Parliament and the Council on the implementation by the European Community of the "Bonn Guidelines" on access to genetic resources and benefit-sharing under the CBD;
22. WELCOMES the creation of an open-ended working group on review of implementation of the CBD, an open-ended working group on protected areas and the agreement on the terms of reference for an open-ended working group to negotiate an international regime on access and benefit sharing; and COMMITS itself to contributing constructively to the successful work of these groups and to strengthening implementation of the CBD Strategic Plan;
23. RECOGNISES the need fully to implement the CBD Strategic Plan, with the aim of achieving its Mission and its four Goals by 2010; NOTES the expanded workload of the CBD, having particular regard to the fact that there are less than six years for the achievement of the CBD 2010 target and, therefore, EMPHASISES that the EU will need to strengthen the implementation of the CBD, and to continue to be a driving force in international work and activities in support of the CBD;
24. RECOGNISES the need to strengthen biodiversity research and monitoring as an important contribution to the implementation of the various CBD work programmes, initiatives and action plans;
25. REITERATES the importance of strengthening sectoral integration of biodiversity issues at all levels to help to achieve the 2010 targets;
26. AFFIRMS that the three objectives of the CBD are closely inter-linked with the concepts of sustaining life, sustaining livelihoods, poverty eradication, the promotion of human health and sustainable development and are essential to achieving the Millennium Development Goals; INVITES the Commission and Member States, UN agencies and international financial institutions to work with their developing country partners to support measures to achieve the three objectives of the CBD in their National Sustainable Development Strategies, national development plans, national budgets, Poverty Reduction Strategy Papers (PRSPs) and in country and regional strategy papers for international development co-operation;

27. URGES Member States, the Commission, other Parties and countries, the G8, the GEF, the World Bank and other relevant agencies and donor organisations to seize the opportunity of the proposed meeting of donors to discuss options for mobilising new and additional funding for developing countries, countries with economies in transition and small island developing states to implement the programme of work on protected areas;
28. WELCOMES the concrete steps taken at COP 7 regarding co-operation with other Conventions and organisations, including the establishment of a biodiversity liaison group, and EMPHASISES that the EU will further contribute to these initiatives at national level and in the relevant fora;
29. WELCOMES the key decisions made at MOP 1 for the purpose of giving operational effect to the Cartagena Protocol on Biosafety; RECOGNISES that the Protocol is the key international legally-binding instrument in the area of biosafety and the safe transfer, handling and use of LMOs resulting from modern biotechnology and SUPPORTS its full and effective implementation; and in this regard:
 - a) LOOKS FORWARD TO the work of the open-ended ad hoc working group on liability and redress, and COMMITS itself to contributing constructively to the successful completion of the group's work within the agreed four-year time frame;
 - b) STRONGLY SUPPORTS the procedures and mechanisms adopted at MOP 1 to promote compliance and to address cases of non-compliance, and COMMITS itself to their full implementation;
 - c) WELCOMES the further development at MOP 1 of documentation requirements for the transboundary movement of LMOs and SUPPORTS the establishment of an open-ended technical expert group to specify these requirements, including the requirements for identification, with a view to adopting a decision at MOP 2; and COMMITS itself to contributing constructively to the work of the group;
 - d) URGES the Commission and Member States to put in place and maintain the EC Biosafety Clearing House which would be globally accessible and interlinked with national Biosafety Clearing Houses;
30. URGES countries that have not yet done so to ratify the Cartagena Protocol and INVITES non-Parties to adhere to the objectives of the Protocol;
31. EMPHASISES that the EU will need to continue to be a driving force in international work and activities in support of the Cartagena Protocol on Biosafety to the CBD."

WASTE FROM EXTRACTIVE INDUSTRIES

The Council held a policy debate on a proposal for a European Parliament and Council Directive on the management of waste from the extractive industries¹, on the basis of the following indicative questions suggested by the Presidency:

- *Should the scope of the proposal include waste resulting from prospecting, unpolluted soil and non-hazardous inert waste and, if so, could you accept the establishment of a threshold?*
- *Should "other extracted materials when placed back into excavation voids" (Articles 1 and 10 of the Directive) be included in the scope of the Directive?*
- *Should the definition of waste facilities (Article 3(13)) to be covered by this Directive exclude temporary storage of extractive waste during:*
 - a) *a harmonised time period within the Community (how many years?);*
 - b) *a time period to be determined by the Member States?*
- *To which waste facilities should the major-accident prevention and information provisions of this Directive be applied?*

Today's debate was aimed at giving the necessary political guidance to facilitate future work, in view of reaching a political agreement at the October 2004 (Environment) Council.

The European Parliament delivered its first reading opinion on 31.3.2004².

¹ 10012/04.

² 7940/04.

OTHER BUSINESS

The Council was briefed on the following issues:

- (a) Fourth Ministerial Conference on Environment and Health (Budapest, 23 to 25 June 2004)
(10491/04 + ADD 1)
- (b) Conference on mobilising knowledge for a better environment (Dublin, 28 to 30 April 2004)
(10364/04)
- (c) Integrating environmental considerations into other policies areas – a stocktaking of the Cardiff process
(10251/04)
- (d) Review of the sustainable development strategy and mid-term review of the Lisbon strategy
(10756/04)
- (e) Protecting biodiversity: European legislation to prevent the import of illegally harvested timber
(10662/1/04)
- (f) Ship decommissioning
(10469/04 + 10768/04)
- (g) Follow-up to the Conference for renewable energy (Bonn, 1 to 4 June 2004)
(10802/04)
- (h) EURO V – Emission standards for diesel-fuelled passenger cars
(10889/04)

OTHER ITEMS APPROVED

ENVIRONMENT

European Environment Agency (EEA)

The Council adopted the following conclusions:

"1. Review

According to Article 20(2) of Regulation (EEC) No 1210/90 on the establishment of the European Environment Agency and the European environment information and observation network, as amended by Council Regulation (EC) No 933/1999 of 29 April 1999,

'Not later than 31 December 2003, on the basis of a report of the Commission, the Council shall review the progress of, and the tasks undertaken by, the Agency in relation to the Community's overall policy on the environment;'

The Commission presented its report in December 2003. In the main, the report represents a positive assessment of the first 10 years of the Agency's operation, and concludes that the EEA has been successfully established as a provider of reliable, high quality products and services.

2. Role of the Agency

The European Environment Agency was established in mid-1994. Over the course of the intervening decade the position of the Agency as a primary source of information for the development of Community environmental policy has been secured.

Therefore the Council:

- | |
|---|
| <ul style="list-style-type: none">• <i>Recognises that the Agency is a key independent resource and interlocutor for bodies responsible for environmental policy making, and data exchange in Europe.</i>• <i>Appreciates the Agency's expertise related to the integration of environmental concerns into other Community policies, and to the promotion of sustainable development both at European and at global level.</i> |
|---|

3. Funding arrangements

As a result of the expanded membership of the Agency, coupled with growth in staff numbers and greater demands being placed on the Agency's resources, the Agency's budget has risen progressively. Further increases are foreseen over the coming years. It will be a challenge for all involved with the Agency to ensure its continued effective operation can be safeguarded.

Therefore the Council:

- *Recognises the increasing demands being placed on the Agency's resources, and the need for adequate funding to meet those demands.*
- *Calls on the Commission, as well as the Agency, to identify and examine new and innovative means of securing adequate funding for the operation of the Agency.*

4. Relations with the EU institutions and Member States

Through the provision of sound scientific knowledge and reliable up-to-date environmental data, the effective operation of the Agency can assist the Community's institutions and Member States to fulfil their respective roles in the conception, implementation and evaluation of environmental policy and by extension, the decoupling of growth from negative environmental impacts.

Therefore the Council:

- *Welcomes the Agency's commitment to provide assessments and analyses and advice to the Commission, the European Parliament, the Council and Member States, in support of the development of the Community environment policy and in that context.*
- *Encourages the Agency to become more responsive to specific requirements of Community institutions and Member States, in particular by delivering information on future trends, working on scenarios and assessments related to various stages of the policy cycle.*

5. Future of the Agency

The EEA published its 5-year strategy (*EEA Strategy 2004 – 2008*) in December 2003, setting out its objectives and responsibilities in a changing European context.

In response the Council:

- *Welcomes the EEA strategy 2004 – 2008, and objectives contained therein.*
- *Recognises the policy priorities set out as those central to the Community's Environment Policy Agenda, identified and set out in the 6th Environmental Action Programme.*
- *Calls on the Agency to strengthen the European Environment Information and Observation Network (EIONET) as a key operating infrastructure.*
- *Calls on the Agency to work with the Commission and Member States to streamline data reporting and recognise the role of EIONET in achieving this aim.*

- *Agrees with the Commission view that a specific Community objective should be to step up the development of a shared European information system for the environment, which would go beyond the EEA's own data sources and includes reporting obligations under Community law and under various multilateral environmental agreements.*
- *Calls on the Agency to continue to contribute to the Commission-led Review of Reporting and develop its information system in line with the Inspire (Infrastructure for Spatial Information in Europe) and Global Monitoring for Environment and Security (GMES) initiatives*
- *Welcomes the Agency's ongoing cooperation with WHO, UNEP, UNECE, OECD and several other international bodies.*
- *Envisages, on the basis of a proposal by the Commission, a review of the Council Regulation on the establishment of the EEA towards the end of the current Multi-Annual Work Programme of the Agency (EEA Strategy 2004-2008).*

EXTERNAL RELATIONS

EU - Ukraine Summit

The Council took note of a progress report on preparations for the EU-Ukraine Summit to be held in The Hague on 8 July 2004.

Three main points are on the agenda for the Summit: developments in the EU and in Ukraine; Ukraine-EU relations, including accession of Ukraine to the WTO; international issues, including Moldova, Iraq, Georgia, Russia and the Middle East Peace Process.

It will be the seventh Summit under the EU/Ukraine Partnership and Co-operation Agreement (PCA), the first to be held since the EU's enlargement from 15 to 25 Member States, taking place three months before Ukrainian presidential elections and against the background of negotiations on the EU's Action Plan for Ukraine under its European Neighbourhood Policy.

European Union Special Representatives*

The Council adopted Joint Actions extending and amending the mandates of the EU's Special Representatives (EUSRs) for the South Caucasus, the Middle East Peace Process, the African Great Lakes Region, Afghanistan and the former Yugoslav Republic of Macedonia. The Council also agreed on a financial statement with regard to the EUSR mandates (10616/04).

The Council agreed on amended guidelines on the appointment, mandate and financing of EU Special Representatives, which normally provide for a 6-monthly review of the EUSR mandates (June and December). However, on this occasion the Council agreed on an eight-month one-time extension of the mandates, in order to bring the timing of the mandates into line with the timing of the Commission's budgetary procedures (10726/04).

Under the Joint Actions:

- The mandates of Mr Heikki TALVITIE as EUSR for the South Caucasus, Mr Marc OTTE as EUSR for the Middle East Peace Process, Mr Aldo AJELLO as EUSR for the Great Lakes and Mr Francesc VENDRELL as EUSR for Afghanistan were extended until 28th February 2005.
- Given the need to replace the EUSR for the former Yugoslav Republic of Macedonia, Mr Søren JESSEN-PETERSEN, following his appointment as the UN Secretary General's Special Representative for Kosovo, his mandate was extended until 31st July 2004 only.

Some minor amendments to the mandates were made, for example:

- Including, "political oversight of the Rule of Law Mission in Georgia", for the EUSR for the South Caucasus.
- Providing that the EUSR for the Great Lakes must "contribute, where requested, to the implementation of peace and cease fire agreements reached between the parties and engage with them diplomatically in the event of non-compliance with the terms of these agreements".

EU mission to support Georgian justice system

The Council adopted a Joint Action establishing an EU Rule of Law Mission in Georgia, in the context of European Security and Defence Policy (ESDP), in order to assist in the development of a government strategy to guide the reform of the country's criminal justice system (10610/04). The Council also authorised the Secretary General/High Representative, assisting the Presidency, to open negotiations on an agreement with Georgia, on the status and activities of the Rule of Law Mission (10367/04).

The mission, "EUJUST THEMIS" will undertake the following tasks:

- Guidance for Georgia's new criminal justice reform strategy, including support in the planning of new legislation, for example the Criminal Procedure Code.

- Support to the Georgian authorities co-ordinating judicial reform and anti-corruption measures.
- Support to international as well as regional co-operation in the area of criminal justice.

The planning phase of the mission will begin on 1 July 2004 and the operational phase in mid-July 2004. The mission will last for one year. The financial reference amount intended to cover the mission's expenditure amounts to 2.050.000 EUR. The estimated total size of the mission will be approximately 10 international civilian experts plus local staff.

This first Rule of Law mission in the context of ESDP launched by the European Union will be conducted in response to an invitation from the Prime Minister of Georgia, on 3 June 2004.

Council extends measures in support of ICTY

The Council of the European Union adopted a Decision extending the measures agreed in its Common Position on support for the effective implementation of the mandate of the International Criminal Tribunal for the former Yugoslavia (ICTY) (10320/04).

The measures, first adopted in April 2003¹, and renewed for a further 12 months on 30 March 2004², are aimed at preventing the entry into or transit through EU Member States of individuals engaged in activities which help persons at large continue to evade justice for crimes for which the ICTY has indicted them, or who are otherwise acting in a manner which could obstruct the ICTY's work. Persons indicted are still at large, and there is evidence that they are being assisted in their efforts to evade justice.

The Council decision extends the travel ban to a further thirteen individuals. The updated list of individuals is attached.

DEVELOPMENT CO-OPERATION

ACP-EC Partnership Agreement - Sugar Protocol - Burkina Faso

The Council adopted a Decision rejecting a request by Burkina Faso to accede to a Protocol to the ACP-EC Partnership Agreement regarding sugar.

¹ Common Position 2003/280/CFSP, OJ L 101 of 23.4.2003, p. 22.

² Common Position 2004/293/CFSP, OJ L 94 of 31.3.2004, p. 65.

Burkina Faso requested to participate in the Protocol's provisions in November 2000 and the ACP States signalled their assent in September 2002. However, examination of the request has shown that Burkina Faso is not a net exporter of sugar and is not at present capable of assuming the Protocol's obligations.

JUSTICE AND HOME AFFAIRS

Visas

The Council agreed on a general approach, pending the opinion of the European Parliament, on a Recommendation to facilitate the issue by the Member States of uniform short-stay visas for researchers from third countries travelling within the European Community for the purpose of carrying out scientific research (10801/04).

Trafficking in human beings

The Council adopted a Decision authorising the Commission to negotiate the draft European Convention on combating trafficking in human beings.

Europol - 2005 budget

The Council approved the draft 2005 budget for Europol, as agreed on unanimously by the Europol Management Board, as well as a supplementary budget providing for increased human resources for 2004 in order to cater for Europol's stepped-up activities in countering terrorism (9547/04).

New posts to be created in 2004 will enable Europol to handle an increase in the flow of information received from the Member States and of information to be processed and provided to the Member States (9764/04).

ECONOMIC POLICY

Economic monitoring - Transmission of data on government debt

The Council adopted a Regulation concerning the compilation and transmission of data on quarterly government debt (*doc. 10600/04, 8171/04*).

The Regulation requires Member States to compile and transmit to the Commission data on their government debt at the latest three months after the end of the quarter to which the data refer. The first transmission of data must take place by 31 December 2004.

The availability of data is important for the economic analysis and monitoring of the budgetary situation in the Member States.

Statistics

The Council adopted a Regulation establishing a framework for the production of Community statistics on the balance of payments, international trade in services and foreign direct investment, accepting all amendments voted by the European Parliament in first reading.

The Regulation specifies the Member States' obligations regarding data to be transmitted - nature and sources of data, quality criteria, reference period, periodicity and transmission deadlines - and sets out definitions to be applied. It defines standards for the dissemination of Community statistics by the Commission and sets up a Balance of Payments Committee as a forum for co-operation between the Member States and the Commission.

TRADE POLICY

Anti-dumping - Vietnam - Ring binder mechanisms

The Council adopted a Regulation extending the definitive anti-dumping measures imposed by Council Regulation (EC) No 119/97, as last amended by Regulation (EC) No 2100/2000, on imports of certain ring binder mechanisms originating in the People's Republic of China to imports of the same product consigned from the Socialist Republic of Vietnam (10105/04).

TAXATION

Savings tax directive - Date of application

The Council invited the Commission to present a proposal providing for 1 July 2005 as the new date of application of Directive 2003/48/EC on the taxation of savings income (in place of 1 January 2005). This is to ensure that the Directive applies at the same time as all equivalent savings tax measures agreed with Andorra, Liechtenstein, Monaco, San Marino and Switzerland and with the United Kingdom and Dutch dependent and associated territories.

It adopted the following conclusions:

“The Council recalls the conclusions reached on the Savings Tax Directive at its meeting (Ecofin) held in Luxembourg on 2 June 2004 that agreement in principle had been reached on all matters of substance with the dependent and associated territories and with Andorra, Liechtenstein, Monaco, San Marino and Switzerland on the necessary arrangements to enable the Savings Tax Directive to be applied. However, the Council notes, on the basis of a report from the Commission, that the condition set out in paragraph 2 of Article 17 of Council Directive 2003/48/EC (on taxation of savings income in the form of interest payments) will not be met with respect to the Swiss Confederation in relation to the date of application of 1 January 2005. In this context the Council, the Member States and the Commission recall that, in accordance with the condition expressed in Article 17 paragraph 2 of the Savings Tax Directive, Member States are obliged to apply the provisions of the Savings Tax Directive only if each of the countries and territories mentioned in that Article applies the agreed savings tax measures from the same date. On that basis and on the basis of the report from the Commission on the Swiss position, the Council invites the Commission to present as a matter of urgency a proposal for the decision under Article 17(3) of the Directive providing for 1 July 2005 as the new date for the application of the Directive by the Member States, which date shall also be subject to the condition of Article 17(2) of the Savings Tax Directive.”

Background

The Directive seeks to ensure that intra-Community cross-border flows of savings income in the form of interest payments are subject to taxation. Its application is subject to the condition that:

- the same measures are applied by the three United Kingdom Crown dependencies of Guernsey, Jersey and the Isle of Man, the five UK Caribbean territories of Anguilla, Cayman Islands, Montserrat, Turks and Caicos Islands and British Virgin Islands, and the two Dutch Caribbean territories of Netherlands Antilles and Aruba;
- equivalent measures are applied by Andorra, Liechtenstein, Monaco, San Marino and Switzerland. Equivalence depends on: withholding tax and revenue sharing at the rates provided for by the directive; voluntary disclosure of information regarding interest payments; exchange of information on request in cases of tax fraud or the like; a review clause allowing the terms of the agreement to be adapted in line with international developments.

On 2 June, the Council concluded that it was satisfied that these conditions would be met, but that the Commission would need to continue discussions with Switzerland on the timing of the agreed savings tax measures. The Commission has since indicated that Switzerland will be able to apply the agreed measures as from 1 July 2005.

The legal text required to change the Directive's date of application is expected to be adopted very soon.

ENERGY

Nuclear safety - Council conclusions*

The Council adopted the following conclusions:

"Reaffirming the commitment of the Community and its Member States to a high level of nuclear safety and to the safe management of spent fuel and radioactive waste as reflected, in particular, in the existing Community legislative framework¹ adopted under the Euratom Treaty as well as in the relevant Council Resolutions and conclusions², and in the conclusions of the 2001 Laeken European Council³,

Stressing that any action should fully respect the provisions of the Euratom Treaty, including as regards the Community's competence and the Commission's right of initiative,

Recalling the Commission proposals for Council Directives (Euratom) setting out the basic obligations and general principles on the safety of nuclear installations and on the management of spent nuclear fuel and radioactive waste, as well as the opinions of the European Parliament and the Economic and Social Committee,

Reaffirming the importance of adequate financial resources to support the safety of nuclear installations throughout their life and during their decommissioning,⁴

¹ Including notably Directive 96/29/Euratom laying down basic safety standards for the protection of the health of the workers and the general public against the dangers arising from ionizing radiation; Directive 92/3/Euratom on the supervision and control of shipments of radioactive waste between Member States and into and out of the Community; Directive 89/618/Euratom on informing the general public about health protection measures to be applied and steps to be taken in the event of radiological emergency; Directive 2003/122/Euratom on the control of high activity sealed sources and orphan sources. The ECJ judgement of 10.12.02 in case C-29/99 is also noted.

² In particular, Resolutions of 1975 and 1992 on "The technological problems of nuclear safety", Resolutions of 1992 on the Action Plan on radioactive waste and of 1994 on the management of radioactive waste; conclusions regarding Special Report No 25/98 of the Court of Auditors concerning operations undertaken in the field of nuclear safety in Central and Eastern Europe and in the New Independent States; conclusions of 1999 on "The present situation and prospects for radioactive waste management in the Community" and conclusions of 2001 entitled "Towards a European strategy for the security of energy supply" in response to the Commission Green Paper.

³ Paragraph 59, which reads: "The European Council undertakes to maintain a high level of nuclear safety in the Union. It stresses the need to monitor the security and safety of nuclear power stations. It calls for regular reports from Member States' atomic energy experts, who will maintain close contact with the Commission".

⁴ In this respect the interinstitutional statement recorded in OJ L 173, 2003, p. 56 highlights the importance of such resources.

the Council,

with a view to further improving nuclear safety and the safety of the management of spent nuclear fuel and radioactive waste

stresses that national responsibility for the safety of nuclear installations is the fundamental principle on which the regulation of nuclear safety and of radioactive waste management has been developed by the international community as endorsed by the Convention on Nuclear Safety and its Parties including the European Atomic Energy Community and reflected in the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management,

acknowledges that International Atomic Energy Agency's (IAEA) standards and approaches, as reflected notably in the IAEA Safety Fundamentals and Safety Requirements Series, constitute an internationally recognised framework which national safety requirements use as a reference level and to the improvement of which Member States have made considerable contributions, as well as to the work within other relevant fora such as the Nuclear Energy Agency (NEA) and the Western European Nuclear Regulators Association (WENRA),

notes with appreciation, in addition to the long-standing contributions of Member States in the various international fora, the intensive efforts in the Community framework put into considering ways and means to meet better the commitments to safety, including the work of the Working Party on Atomic Questions and of the ad hoc Working Party on Nuclear Safety (WPNS), the work done pursuant to the relevant Council Resolutions and through the Euratom Framework Research Programme on the safety of nuclear installations and on the management of radioactive waste. In this respect the contributions of expert groups, such as the Nuclear Regulators Working Group (NRWG), the Reactor Safety Working Group (RSWG) and the CONCERT Group, should be noted.

calls on Member States, who have not yet done so, to accede, as a matter of urgency, to the Convention on Nuclear Safety and the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management,

is of the view that instruments in this field should be developed following extensive consultations with stakeholders and, particularly in the field of harmonised safety approaches, should take account of the work conducted by national nuclear regulatory authorities in this respect,

urges Member States together with the Commission:

to avail themselves in particular of the possibilities offered by the review meetings under the Convention on Nuclear Safety and the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management in 2005 and 2006 respectively,

to assess the results achieved under these Conventions, including at previous Conferences of the Parties,

to take stock of the outcome of the work conducted by national nuclear regulatory authorities in multinational fora, including in the WENRA framework,

and on that basis

to engage in a wide ranging consultation process facilitating the choice of instrument(s), in the framework of the Euratom Treaty, that can contribute more effectively to achieving nuclear safety and the safe management of spent fuel and radioactive waste, without excluding any instrument and in line with the principles of Better law making¹,

invites the relevant Working Parties² of the Council to keep this process under regular review,

invites the Commission to report on and, together with Member States, assess the outcome of this process, and

in the light of the high importance it attaches to nuclear safety and to the safe management of spent fuel and radioactive waste, the Council decides to return to this matter in a timely manner."

Slovenia*

The Council adopted a Regulation amending Regulation (EC) No 1228/2003 as regards the date of application of certain provisions to Slovenia (*10356/04 + 10516/1/04 REV 1*).

Estonia*

The Council adopted a Directive amending Directive 2003/54/EC as regards the application of certain provisions to Estonia (*10470 + 10517/1/04 REV 1*).

¹ As reflected for instance in the European Parliament, Council and Commission Interinstitutional Agreement on better law making, OJEU, C 321, p. 1, 31.12.2003.

² At present these Working Parties are the Working Party on Atomic Questions and the ad hoc Working Party on Nuclear Safety.

FISHERIES

Reference levels

The Council unanimously adopted a Regulation granting a derogation to the new Member States, as regards some provisions concerning the reference levels for fishing fleets entailed in Regulation (CE) 2371/2002 (10156/04).

Article 12 of Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy provides that reference levels are to be established for each Member State's fleet as the sum of the objectives per segment of the Multi-annual Guidance Programme 1997-2002.

As the new Member States will not have such objectives corresponding to this reference period mentioned, a derogation to this obligation is granted for the ten new Member States.

This Regulation applies from 1 May 2004.

Agreement with Greenland

The Council adopted, by qualified majority, a Regulation approving a Protocol on the conditions for fishing for the 2001-06 period under the Agreement on fisheries between the Community, the government of Denmark and the local government of Greenland.

The United Kingdom delegation voted against the Regulation.

INSTITUTIONAL AFFAIRS

Budget - Convention

The Council gave its assent concerning the discharge to be given to the Secretary-General of the Convention on the future of the European Union in respect of the implementation for the financial year 2003 of the budget of the Fund set up for the financing of the Convention

European regulatory agencies - *Council conclusions*

The Council adopted the following conclusions on the Commission communication on “The operating framework for European Regulatory Agencies”:

- "1. The Council recalls the presentation by the Commission of its Communication, "The operating framework for European Regulatory Agencies"¹, in the context of the follow-up to the White Paper on Governance².
2. The Council notes the intention of the Commission to present a proposal for a legally binding instrument for a horizontal framework for "regulatory agencies". Such a framework should take due account of the need to ensure democratic control and respect for the principles of subsidiarity and proportionality. It should address key issues in the creation, operation and supervision of "regulatory agencies" with the aim of ensuring, in particular, coherence, transparency, good governance, credibility and cost-efficiency, as well as the legitimacy of their executive action.
3. The Council notes the existence of various decentralised community bodies, which come within the broad heading of European agencies, which, as the Commission has pointed out in its Communication, have certain formal characteristics in common but differ in many respects. In this context, the Council calls on the Commission, in its proposal for a framework, to provide a clear definition of "regulatory agencies" according to their competences and tasks.
4. The Council believes that a future horizontal framework should only apply to those "regulatory agencies" established after the entry into force of such a framework. Following its entry into force, and in the light of experience gained, the Council could examine, on the basis of a proposal from the Commission how this might be applied to established "regulatory agencies", without prejudice to specific provisions for review already enshrined in the instruments establishing the various "regulatory agencies".
5. The Council considers that a future framework should identify criteria to apply in respect of the creation of "regulatory agencies" and, in particular, should provide that any decision to create or maintain an agency is justified on the basis of real need and cost-benefit analysis, should take account of the availability of relevant expertise, and should include impact assessment.
6. The Council acknowledges that the evolving and varying nature of the responsibilities of "regulatory agencies", justifies the examination of all questions related to their structure, including the composition of management boards and the respective functions of their bodies. In addition to current experience, this examination should take into account, inter alia, the competences exercised by, and the nature of the tasks allocated to, each agency.

¹ Doc. 5091/03 INST 2 JUR 8.

² Doc. 11574/01 POLGEN 18.

7. The Council believes that, in the context of discussions on the creation of “regulatory agencies”, questions relating to the location of such agencies should be resolved at the earliest possible opportunity, and taking account of the Conclusions of the Representatives of the Member States, meeting at Head of State or Government level in Brussels on 13 December 2003, and the current practice regarding decision-making.

The Council notes that these conclusions are without prejudice to any ongoing work on the creation of “regulatory agencies” as already proposed by the Commission or under discussion in Council."

APPOINTMENTS

Economic and Social Committee

The Council adopted a Decision appointing Ms Laure BATUT as a member of the Economic and Social Committee in place of Mr Jean-Marc BILQUEZ for the remainder of the latter's term of office, which runs until 20 September 2006 (10685/04).

DECISIONS TAKEN BY WRITTEN PROCEDURE

Telecommunications — EU-US Agreement GALILEO / GPS

The Council adopted unanimously by written procedure, initiated on 21 June and closed on 22 June 2004, the decision on the signature and provisional application of an Agreement with the United States on the promotion, provision and use of the GALILEO and GPS satellite navigation systems and related applications. (10257/04).

The provisional application begins on the first day of the first month following the date on which the Parties have notified each other of the completion of the necessary procedures for this specific purpose. This date will be published in the Official Journal of the European Union.