



EUROPEAN ENVIRONMENTAL BUREAU

2015 Annual Conference

CONFERENCE REPORT
“A reform agenda for a sustainable Europe”
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1. Introduction

European Commission President Jean-Claude Juncker wants to be "big on big things and small on small things" and it doesn't get much bigger than safeguarding the environment, the world's life support system.

The 2015 annual conference took a hard look at the roles of 'better regulation', sustainability and the rule of law in rising to this challenge.

What the EU and in particular the Commission does in these areas over the next five years matters more than ever before if it is truly serious about a reform agenda fit for the 21st century and capable of tackling the environmental and social challenges both within and outside Europe in a comprehensive and effective manner.

Taking place shortly after the adoption of the global United Nations 2030 Sustainable Development Agenda and in the run up to the COP21 Climate Change Conference at the end of the year, the conference provided a timely forum for discussion.

Documentation from the conference, including photos and presentations, can be found on the conference website: www.eebconference.eu



2. Proceedings

2.1. Welcome address

The conference opened with a welcome address from **EEB President Mikael Karlsson**. He highlighted the important links between humans and the rest of nature, underlining the “present gargantuan environmental crisis”. A continuation of current trends would “take humankind far beyond the planetary boundaries that are a prerequisite for prosperity,” he said, highlighting that this “massive erosion” of our natural resources is taking place as “billions of our fellow human beings live in deep poverty”. Such assertions “might seem dramatic on an ordinary morning,” but science left no doubt about “the global situation today” and that humanity was both contributing to the crisis and increasingly affected by it, stated Karlsson.

He expressed his disbelief that “any analysis can result in the conclusion that these are small issues” and noted on the contrary that “all scientific academies and an increasing number of economic actors and progressive companies” are aware of the enormity of the situation.

Many businesses, for example, are responding with a call for a circular economy, with the understanding that in addition to environmental benefits, such a model would “enhance employment and competitiveness in the EU”. Karlsson noted the Commission’s withdrawal of its 2014 circular economy proposal and said the EEB was “willing to assist in making the circle perfect”. He also underlined the high expectation - “not just from environmental experts” - surrounding the new proposal due to be tabled in December, noting, for example, that an improvement in resource productivity of just 1% could “stimulate 100 000-200 000 new jobs”.

The EEB President drew attention to how at last year’s annual conference, attention had been focused on the “explicitly regressive approach” towards the environment from the then new European Commission. Almost a year later, Karlsson said the Commission had made a “poor start,” noting again the withdrawal of the circular economy package and the proposed fitness test on the nature directives, which mobilised over 500 000 people to ask for the laws to be better enforced and funded, not re-opened.

Karlsson also drew attention to the Commission’s Better Regulation agenda, underlining that the whole system advocated by the EU executive needs to be amended if we are to have an effective regulatory system. This would mean taking on board the vision set out in the Seventh Environmental Action Programme (7EAP) and the Sustainable Development Goals (SDGs), and the introduction of an updated sustainable development strategy for the EU, said Karlsson. Further, better regulation should be based on science and non-biased assessments that take into account, for example, the



benefits of avoiding non-action costs through protecting the hundreds of thousands of people dying from air pollution or from exposure to hazardous chemicals, he added.

The EU should also move forward on climate issues, said Karlsson. He highlighted how the current pledges (so-called Intended Nationally Determined Contributions) ahead of the forthcoming COP21 climate conference are “far from sufficient to limit global warming and avoid dangerous climate change”. Research shows that by 2050 we need zero emissions, said Karlsson, referencing the Earth Statement in which prominent leaders from all sectors call for action to deliver an equitable, ambitious and science-based global climate agreement in Paris in December. He emphasised the importance of staying significantly below the 2 degrees C target to avoid dangerous climate change, adding that if we do not manage to keep global warming below 4 degrees C we will move “outside the frames of civilisation”. Undermining the natural systems that govern the working of our climate, “would undermine the future of our children,” he added.

Sustainable development is more than acronyms – “SDGs, IABs, EAPs and INDCs”; it is the “solidarity that beats within our hearts and that makes us human,” said Karlsson. Mobilising this inner resource has led to change, including the “coming out of the Pope as a climate activist”. But what has happened until now has merely been a warm up; it is now time for the EU to get this process started properly, said Karlsson, urging conference attendees to see the day as a “stepping stone” in the creation of a “reform agenda for a truly sustainable Europe”.

2.2. Setting the scene: Opportunities and obstacles on the path to a sustainable Europe

The opening plenary discussion involved presentations from key representatives of the EU institutions on the challenges facing environmental and sustainable development policy in Europe today, as well as the opportunities for making real progress, reactions from other stakeholders and a debate involving all speakers and participants.

Moderator: **Jacki Davis**, Journalist, Editor and Senior Advisor to the European Policy Centre

Presentations: **André Weidenhaupt**, Director General, Department of the Environment, Ministry of Sustainable Development and Infrastructure, Luxembourg on behalf of the Luxembourg Presidency of the European Union

Daniel Calleja Crespo, Director General of DG Environment, European Commission

Molly Scott Cato, Member of the European Parliament, Group of the Greens/European Free Alliance

Reactions:

Katharina Reuter, Managing Director, UnternehmensGrün e.V. and co-founder of ecopreneur.eu

Barbara Helfferich, Director of the European Anti-Poverty Network and Vice-President of Social Platform

Jos Dings, Director, European Federation for Transport and Environment (T&E)

André Weidenhaupt

kicked off the discussion highlighting that now was a particularly important time for the environment with the recent agreement on the SDGs and the upcoming COP21



conference in Paris. This should seriously change the way the world is thinking about its impact on the environment, he said. The SDGs in particular address both environmental and social policy, he added. Weidenhaupt underlined that the forthcoming circular economy package was a major opportunity, but that the EU had lost one year by withdrawing the original proposal. He also highlighted that the EU is also undergoing a mid-term review of the state of its biodiversity and that it is clear that more needs to be done. Better implementation and monitoring of legislation in Member States would help, he suggested.

Daniel Calleja Crespo urged participants to be less bleak about the outlook for the environment. He acknowledged that some claimed the area was being overlooked by the new Commission but he disputed this. He argued that the environment was being mainstreamed into other policy areas. Nonetheless, Calleja agreed that the biggest crisis facing the EU was not the refugee crisis, nor the eurozone crisis, but the environmental crisis. The EU is and must remain the global leader in environmental policy-making and the outlook is bright, he said, but acknowledged that the EU needs to work on putting the sustainable development agenda into practice and on making the COP21 targets a reality. The circular economy is a big challenge and the EU will have to deal with issues like landfilling, improving resource use and making more resource-efficient products, he added.



Molly Scott Cato opened her intervention by asking “Better Regulation, but for whom?” She argued that the concept of better regulation espoused by the Commission was putting workers’ right and environmental safeguards at risk and was strongly influenced by BusinessEurope. She noted a recent statement by the centre-right European People’s Party arguing that the circular economy initiative should be market-led. Scott Cato said it was a broken system that has got us in this mess and that the market does not protect the environment. This “mess” was likely being compounded by pressure from the UK Prime Minister David Cameron for a deregulatory agenda at EU level and threats that the UK could leave the EU if it fails to get

what it wants. The obsession with “growth and jobs”, particularly in the UK, makes the two seem like a single word she quipped, but Scott Cato argued that the two were not necessarily linked. “The growth model is broken and it is not bringing happiness or well-being,” she concluded.

Katharina Reuter said she wanted to add the voice of progressive business to the debate and argued that her success showed ‘yes, we can!’ She argued that the market was changing and that products made or grown locally were increasingly entering the market. Reuter underlined that to get to a sustainable Europe, it was essential to stop investing in fossil fuels and start integrating the costs of greenhouse gas emissions into prices. She called for the carbon, water, land and material footprints of activities to be assessed and for an outright rejection of the EU-US Transatlantic Trade and Investment Partnership (TTIP). Reuter said TTIP represented a step in the wrong direction and could weaken many social and environmental safeguards.



Barbara Helfferich underlined that there was too much poverty in Europe and that much needs to be done. She noted that everything is talked about in economic terms, from social investment to costs and benefits of actions, and questioned whether social policy should be viewed in economic terms. The same problem faces environmental policies, namely that certain things cannot be explained via simple cost/benefits analyses, said Helfferich. In her opinion, lots of businesses are interpreting the circular economy as a way to make the circle bigger, “but this is precisely what should not happen,” she said, underlining that “the circle can only be so big given that our planet is finite”.

Jos Dings argued that ‘dieselgate’, the Volkswagen vehicle emissions cheating scandal, was a symptom of a system that had gone wrong. He argued that in Europe, politicians only do things in half-measures - just like the euro, the liberalisation of capital or the single market, car tests had only been made to partly function. His big fear was that national governments were not acting in the interest of the people and that without the US regulatory authorities or NGOs, this scandal would not have come to light. The Commission claimed to be thinking big, but evidence points to the contrary, added Dings. “Worrying about setting up an EU agency that monitors and enforces emissions standards does not display thinking big,” he said.

Discussion

Calleja argued that the environment has to be incorporated into all other policy areas and that although the pace of change had slowed because Europe was going through its worst economic crisis since WWII, the model of the future is clearly a circular economy. Sustainability and competitiveness must go hand in hand, he said. Calleja



argued that the real problem of EU legislation was enforcement, though he acknowledged that the way rules were set up could sometimes be improved. ‘Dieselgate’ showed that member states were not doing their job at complying with EU law, he said.

Scott Cato called for more transparency in the way EU laws were drawn up and an end to the revolving doors policy between politics and business. “Some companies don’t want green legislation because it reduces their profits, but maybe they are the ones that are too big and powerful,” she said. One member of the audience asked what the EU planned to do about the constant accumulation of power by corporations. **Calleja** said the Commission had one of the strongest competition policies in the world and was the standard-setter in the world in this field. The circular economy would create new opportunities for entrepreneurs, he added.

In response to questions as to whether the Commission would listen to the responses to the public consultation on the nature directives, **Calleja** said that it was very clear that people wanted compliance with existing laws rather than any change of the directives. Jacki Davis asked what the EU did need to change. **Scott Cato** said the EU must become the first continent to move away from fossil fuels and congratulated Commissioner Vestager for “doing a good job in taking on corporates,” noting that UK’s planned State-subsidised nuclear power plant at Hinkley Point was “a disgrace”. **Jos Dings** said successful change for him would mean living within our planetary boundaries and respecting human dignity.

2.3. The roles of better regulation, governance for sustainability and the rule of law in creating a more sustainable Europe

This plenary session heard the views of influential speakers on three key horizontal themes that were explored in greater depth in the afternoon breakout sessions.

Moderator: **Jacki Davis**, Journalist, Editor and Senior Advisor to the European Policy Centre

Better regulation: **Silvia Albrizio**, Economics Department, OECD

Governance for Sustainability: **Karl Falkenberg**, Senior Adviser to the European Political Strategy Centre, European Commission

Rule of law: **Jerzy Jendroska**, President, Polish Environmental Law Centre



Silvia Albrizio said the OECD has been promoting better policies for better lives for 50 years. “We are facing muted growth, low investment and high unemployment,” she said. “Europe faces high costs and risk because of insufficient action on climate change.” She said

it was possible to have economic growth on the one hand and environmental sustainability on the other if policies are carefully designed. Stringent environmental policies don't harm economic growth and have no effect on aggregate trade flows, she added, but underlined the importance of designing policies that "don't create extra burdens for firms". In short, companies need stable and predictable policies that send investors positive signals, minimal administrative burdens, easy access to finance and policy alignment. The social implications of environmental policies must also be considered, she added.

Karl Falkenberg said the EU was lacking the "right governance" and talked about the need for "governance for sustainability". Referring to his assignment from President Juncker to prepare a report by June 2016 on the possible updating of the EU Sustainable Development Strategy (SDS), he insisted on the need to overcome a silo mentality when addressing the environmental, social and economic dimensions of sustainability and to "mainstream sustainability". He invited the audience to consider what this meant: "Do we need a new strategy? A sustainability council? Does having a sustainability council mean laws are more sustainable?" Effective regulations were needed as, according to Falkenberg, society and consumers will not achieve sustainability on their own. "Consumers won't ignore the price and producers won't stop thinking about profit," he said.



"There are tremendous challenges in designing sustainable governance," continued Falkenberg. "We hear a lot of talk about 'resilience' and while I like this notion when it comes to natural disasters, if we are talking about making our societies more resilient to bad policy design then I think we are on the wrong track." Society should rather be looking to "sustainability and prevention, not for cures when the shock happens". Referring to the increase in inequality, Falkenberg commented that "the way our financial system is organised globally is not sustainable – the financial bubble exceeds real economic wealth three or five times over. Investment and savings should be directed to the real economy. Instead we trade in 'empties'. We trade in nothing yet as a society we have the impression we are getting richer."



Jerzy Jendroska addressed the relationship between the rule of law, democracy and sustainable development. "The rule of law is not a legal concept," he said. "It means respect for the law, enforcement and legal certainty, but it does not necessarily mean democracy." Nor was the rule of law automatically "a friend of sustainable

development”, though potentially it could be. Citing the example of China where they have “tremendous pollution problems because they chose growth without thinking about the environment”, he noted that the rule of law “can be a tool to ensure environmental laws are enforced.” In the EU treaty there are a number of provisions for the rule of law, he explained, but questioned how these were implemented in practice and called for the Commission to put more pressure on member states to obey laws. According to the EU’s obligations under the Aarhus Convention, “members of the public should be able to trigger enforcement,” said Jendroska, but noted that the European Court of Justice had applied double standards in this regard, being more strict in applying this to Member States than to the EU institutions. With regard to the EU institutions, NGOs can generally not sue on behalf of the environment and he warned that “if this practice continues, the EU will be in breach of the Aarhus Convention”.

Discussion

In response to a question on the increasing number of infringement cases, **Karl Falkenberg** was reluctant to criticise the whole EU law-making process. “The process to set legislation is long and tedious, but there is a lot of participation from stakeholders,” he said. Instead Falkenberg drew attention to the way “the environmental acquis has not grown very rationally; it reacts to shocks. For example we have a mining disaster and then two years later we have a proposal for a mining directive.” Falkenberg also expressed doubts about the use of directives as a legal instrument due to the time taken to transpose them compared to regulations which apply directly, which when added to the time needed to develop and negotiate a legislative proposal could mean an average of 10 years between identifying a problem and having legislation in place. We have a lot of room to improve when it comes to reporting on existing legislation, ideally the Commission should be able to go into Member States to gather information but this requires resources at a time when they are scarce.

Jerzy Jendroska said he did not think that more infringement actions meant that there was something wrong with the legislation. Instead, he suggested that “part of the problem is fragmented legislation which is negotiated in Brussels and the result is not coordinated so there are problems with implementation and transposition”. He also highlighted the need for resources. “The Commission is not able to carry out inspections all over Europe, but can you rely on national inspections?” he questioned.

EurActiv journalist James Crisp asked what the Commission can do to convince people that better regulation is not de-regulation, while others in the audience suggested that in the context of better regulation “the Commission just listens to business”. **Falkenberg** replied that this agenda was “not new”. However, in defence of fitness checks he cited the assessment of the Water Framework Directive several years ago, commenting that NGOs did not accuse this of watering down legislation. “I cannot say that in the future it will always be like that,” he said, adding “we must make sure that legislation gives us the results we want”.

Davis brought the panel to an end by asking each speaker what stepping stones were needed to deliver a more sustainable Europe. Silvia Albrizio called for an end to “working in silos,” Falkenberg urged attendees to “go out there and vote for the right government,” while Jendroska called for a “new directive on access to justice.”

2.4. Parallel break-out session 1: Better Regulation

Better Regulation has been the ideological mainstay of the Juncker Commission and the driving force behind its vigorous application of the principle of ‘political discontinuity’. In May 2015, this agenda was given further momentum with the publication of a new Better Regulation Package. Although the Commission maintains that the package has no deregulatory purpose, concerns have been raised that the actual proposals for new bodies and procedures seem designed to reduce regulatory activities at EU level and to reduce overall regulatory costs. Central to this ‘better regulation’ package is a proposal for a revised Inter-Institutional Agreement on Better Lawmaking on which a deal is expected to be reached by the end of 2015. If left unchanged, this would bind the European Parliament and Council not only to the political priorities of President Juncker, but also to its overall approach to better regulation. Concerns have also been raised about the impact of the proposed transatlantic trade and investment partnership (TTIP) on the EU’s ability to set ambitious binding standards for the protection of, amongst others, the environment, health and working conditions.

The purpose of this session was to have a frank and open debate about the implications of these developments for the ability of Europe to embark on a comprehensive and sustainable reform agenda and in particular on anticipated proposals for a circular economy and sound management of chemicals, and the ongoing review of the Birds and Habitats Directive.

Moderator: **Pieter de Pous**, EEB EU Policy Director;
Rapporteur: **Laurens Ankersmit**, lawyer specialising in EU trade and environment at Client Earth;
Speakers: **Riccardo Maggi** member of the Cabinet of First Vice-President Frans Timmermans, European Commission; **Joost Mulder**, Head of Public Affairs at Finance Watch; and **Silvia Albrizio** from the Economics Department of the OECD.



Riccardo Maggi opened the debate by stating that part of the controversy surrounding the Better Regulation agenda stemmed from the difficulty in defining this term and suggested it could also be known as better lawmaking, smart regulation or regulatory fitness. Whatever the preferred term, the agenda has one goal, that of ensuring that regulatory choices deliver the best results at minimum cost and that they are easy to apply and enforce. Maggi said that policy-making needs to

be based on evidence and an understanding of the problem at stake. Further, it is necessary to look at the whole cycle of policymaking and implementation since what makes sense on paper does not always translate into the intended outcome, he added. Legislation usually comes under fire because, for example, it: violates the subsidiarity principle; is too costly, burdensome and unclear; is difficult to implement, enforce and comply with; does not have sufficiently ambitious targets; and is not sufficiently enforced. The key principle of the Better Regulation agenda is “pragmatism not idealism” with policies based on best available evidence, said Maggi. This approach will be helped by the Regulatory Scrutiny Board, which will mean more scrutiny of EU regulations and more common efforts through a new inter-institutional agreement, he concluded.



Next to speak on the panel was **Joost Mulder**. He expressed concerns about Better Regulation, in particular the “danger of dressing up political decisions as procedure”. He said members of the Better Regulation Watchdog, of which he is a member, feared that “better regulation leads to depoliticisation because of its focus on impact assessments, which are a back door to no action”. According to Mulder, “it is notoriously difficult to make good impact assessments because elements of them are difficult to assess [and] there are huge margins of error”. For example: “those with an interest mix up the cost of compliance with the cost of the impact on business,” he said. “Compliance is not the same as negative impacts from regulating business models, it can be the actual purpose of the rules where those models are not serving society but going into the pockets of shareholders,” added Mulder. Likewise, “it is hard to quantify some benefits of legislation in any cost/benefit analysis, for example what is the numerical benefit of phasing out nuclear energy?” he asked.

With this in mind, Mulder argued there was “paralysis by analysis” with Capital Markets Commissioner Jonathan Hill “buying into industry arguments that different pieces of legislation interact, causing impact, and so a comprehensive analysis is needed”. He added that “better regulation is not as simple as deregulation; for the Commission it is a way of increasing control over the legislative process”. Despite this criticism, Mulder said the Better Regulation Watchdog could support the Commission’s questioning of the legal basis of policymaking (delegated acts versus implementing acts) and that it welcomed “better transparency over lobbying and meetings”. In conclusion, “to fix Better Regulation, the Commission needs to admit that impact assessments are only a tool, not a dossier of proof.” The EU executive “says it is listening, but when three million people sign a citizens’ initiative on TTIP, it is ignored”. Mulder concluded: “If better regulation is about preventing Brexit, why is gold-plating not permitted? Gold-plating should be a tool, not a risk”.

Discussion

The first question came from Cecile Toubeau, Better Trade and Regulation Officer at Transport and Environment (T&E), who wanted clarification on cost-benefit analysis and which costs were taken into consideration: those for the environment, government or industry? She also questioned how the general public was supposed to engage with public consultations “when you need a law degree to do so”. The Commission’s **Maggi** said that regarding the costs it was “complicated”. He explained: “We hear complaints from both sides”. Industry complains that the Commission doesn’t quantify the

costs, but he said the EU executive did not require mandatory quantification of benefits or costs “because we know it is impossible at an EU level to come away with solid evidence in most cases. The guidelines say you should try as hard as possible, but if you can’t, you should explain why not.” The latter “is very much the majority of cases,” said Maggi. He also said it was important to differentiate between dealing with a single country and different data from 28 member states. Likewise, member states have “a mandate from their electorate, while the Commission delivers on treaty goals”. This makes it easier for member states “to resolve the cost/benefit dilemma,” he suggested.

Regarding the issue of “gold plating,” Maggi said this was “more a communication issue” for the Commission, suggesting that member states should take responsibility for decisions taken in national capitals rather than blaming Brussels, when they get pushback from business.

Ankersmit asked whether the Commission believed it was striking the “right balance between scientific evidence gathering and political decisions”. **Joost Mulder** suggested this was tricky given that “those with an agenda to push will do the research on costs, while the Commission will never get a good picture on benefits”. But Maggi disagreed. “My experience on costs is that industry isn’t so good at providing the evidence,” he said. He added that “a better informed debate is better than the opposite” and that with this in mind, it was “better to have a wide public consultation”. Regarding the influence of the Better Regulation agenda, Maggi said that this was informing decisions, but not substituting other evidence. “The proof is in the pudding, you have to trust me,” he said, insisting that the Commission was happy it was being watched by NGOs.

Faustine Bas-Defossez, EEB Senior Policy Officer for Agriculture, suggested that the “elephant in the room is the Common Agricultural Policy (CAP)”. She highlighted that it costs €50 billion a year and is, in its current form, a major threat to our environment. The greening of the CAP had failed, she pointed out, insisting that “people pay three times: for food, subsidies and damage clean-up”. With this in mind, Bas-Defossez asked whether a “proper assessment of the CAP” was on the cards.

The OECD’s Silvia Albrizio agreed, saying that the CAP was “policy misalignment” that “causes the vanishing of our environmental policies”. **Maggi** acknowledged that the CAP “may not be as coherent as other goals” and that the Commission tried to unpick some of the problems at a “lower level,” but insisted that it was “very difficult”. However, he promised that the Commission was listening, was “engaged and trying to not just be technocratic,” citing TTIP and the Nature alert campaign as two cases where the EU executive was listening. Regarding the strong support voiced for the Nature directives, he said: “this is clear and heard”.



Roland Joebstl, EEB Climate and Energy Policy Officer, then questioned why the Commission talked of its policies being “balanced” when the environment was absent from Juncker’s 10 priorities. He also asked why if the Commission supported evidence-based policymaking did it ignore its own study

on carbon leakage. “Your numbers show there’s no carbon leakage. How did we end up ignoring this in relation to the carbon market?” he asked. **Maggi** responded that one had to make the best out of the Better Regulation tools: “we are caught in a bind. There’s a trade off in the big dynamics in the workings of the institutions. We’re dealing with a machinery that is very heavy. The fundamental causes are that there’s the Commission, the Council and the Parliament.” The need for all three institutions to agree “creates uncertainty and delay” and brings “an inevitable cost,” he added. “We have to live with the reality of European integration.”

Others in the audience underlined the difficulties associated with quantifying the potential impact of a policy in the context of a public consultation. **Maggi** reassured them that policies were not simply based on cost/benefit analysis, but also on risk assessments and the precautionary principle, and that the Better Regulation system was about “better outcomes”. He told attendees: “We look forward to your support in looking back and assessing our success.”

Philippa Nuttall Jones, EEB Senior Communications Officer, asked **Maggi** how he would prefer to engage with civil society, which has been negative about Better Regulation. The Commission official answered: “my plea is to be evidence based, to try and discuss and separate the good from bad political choices. If we discover there are systematic problems with Better Regulation, that there’s a case for adjusting the Better Regulation framework, then that’s somewhere to engage”. **Maggi** added that the Commission was also willing to “engage on individual policies, on whether data was good or bad” for example.

Regarding the REFIT programme, **Maggi** said there was a “bias towards doing new things,” but acknowledged that it was important to look back and see what had worked and what had not worked. This was the inspiration behind REFIT.

As to the VW scandal and the lack of enforcement of legislation in the automobile sector, **Maggi** said this was not directly related to Better Regulation, but was more about the Commission’s role as the guardian of the Treaties. He added there were multiple cases of agencies not being adequately tasked with supervision and that “member states may not want to properly enforce [legislation] for national reasons”. Silvia **Albrizio** said that examinations of policymaking should also take into consideration compliance. “This could prevent some of this behaviour.”

2.5. Parallel break-out session 2: Governance for Sustainability

In September 2015 a new global Framework for Sustainable Development Agenda was adopted at the UN General Assembly in New York. This framework includes a set of 17 Sustainable Development Goals (SDGs) and 169 targets. As this agenda is explicitly universal, the EU and its Member States are committed to achieve those goals in Europe. It is therefore very timely to start to discuss how the EU will organise the implementation process and what the possible engagement will be for civil society organisations. For Europe, a logical framework for this would be a renewed Strategy for Sustainable Development, based inter alia on the SDG commitments and building on existing experiences of Sustainable Development strategies and councils, including those from other parts of the world.

Moderator: **Leida Rijnhout**, EEB Director of Global Policies and Sustainability

Rapporteur: **Ingeborg Niestroy**, Associate of the International Institute for Sustainable Development

Speakers: **Philipp Schönrock**, Director of the Centro de Pensamiento Estratégico Internacional (CEPEI)

Gerald Berger, Operating officer at European Sustainable Development Network (ESDN) - Vienna; Senior fellow and project manager at the Institute for Managing Sustainability

Joined by **Karl Falkenberg**, Senior Advisor to the European Political Strategy Centre, European Commission



Leida Rijnhout opened the session by highlighting that the Sustainable Development Goals did not just fall out of the sky and that they are not just post-Millennium Development Goals (MDGs). The process on Sustainable Development began with Agenda 21 in 1992 at the first Summit on Environment and Development (UNCED). Since then the UN has initiated action on sustainable development at national country level through its

Commission of Sustainable Development (CSD). The CSD also organised the Rio+20 summit, where the decision to draft a set of SDG was agreed. During this time many countries adopted national sustainable development strategies with the active participation of the nine Major Groups. Hence, it is false to say that the environment and development have just met!

Gerald Berger then gave some background on the SDGs, noting that there were 169 targets attached to 17 goals, embedded within the 2030 Agenda for Sustainable Development. He said that while adoption had been hard, implementation would be even harder. “We need to implement the SDGs and make sense of them,” said Berger. “Countries now need to move from inspirational commitments undertaken at the UN level to the hard task of implementation at the national and EU level.” He underlined the big gap between the real world and policy responses and said we need to work out what an adaptive governance system would look like at regional and national level.

Berger also outlined the status quo of sustainable development in the EU and in MS. There exists a European Sustainable Development Strategy rooted in Council conclusions from 2006 that set out how Europe should handle sustainability, but no over-reaching active policy process, hence the interest around the report by the Commission’s Karl Falkenberg on a sustainable development strategy due in June 2016. Berger also looked at the Europe 2020 growth strategy and mentioned national sustainable development governance processes, saying that all EU MS, bar two, have them, but noting the variety between them.

Philipp Schönrock discussed the way SDGs are implemented in countries outside the EU, notably

Colombia. He presented the different aspects of a development ecosystem, noting that Colombia was the first country to start to implement the SDGs. Colombia proposed an agenda and drove it, he said, insisting the success was based on a multi-stakeholder approach and that new resources were needed to finance development. This is apparent in Latin America and the Caribbean, which is considered middle-income countries, but has the greatest inequalities in the world - 28% of the Latin American population was classed as poor in 2014 and the Latin American and the Caribbean economy will only grow by 1% in 2015.



In terms of funding and implementing the SDGs, **Schönrock** highlighted the importance of interdependence, so that, for example, Europe paid more attention to the impact of its policies outside its borders. He also called for: disaggregated data “to have a clear idea of each of the 17 SDGs”; better development measures for a holistic approach; shared but differentiated responsibilities; and the need to gain more attention in the media as a way of gaining political

attention. Likewise, national indicators should be formulated to help implementation, monitoring and financing, he added.

Discussion:

Rijnhout asked Falkenberg how to overcome the lack of political will towards a Sustainable Development Strategy in the EU. **Falkenberg** suggested that attitudes were changing. He cited Rio+ 20 as the “first time it was no longer maintained by developing countries that poverty eradication was of such importance that environmental concerns had to be ignored,” while noting that “we can’t forget that in Europe we have created wealth at the expense of the environment”. He continued: “There will be 10 billion people on the planet by 2050 so the recipes that may have worked in the past are no longer appropriate. Three billion people dumping their waste in the ocean is a different thing than 10 billion people dumping their waste in the ocean. That’s the starting point from which we have developed the SDGs.”



The presentation by Schönrock showed that “implementing the SDGs is going to require a lot of transformational changes,” said **Falkenberg**. “Without a very strong and consistent European voice the Colombian exercise would have been more difficult.” He made the case for Europe doing much more: “Having adopted an inspirational agenda, Europe is continuing to harm biodiversity, we are extracting water beyond natural limits, we are damaging air quality, producing food which is harmful for the environment and those who produce it,” he stated. “The demographic reality is that in Europe we are shrinking in numbers so we need to deal with refugees differently. On unemployment

and social inequalities we are doing better than Latin America. And we have managed to have a period of peace for the last 60 years.”

Falkenberg confirmed he would report on a possible Sustainable Development Strategy by June 2016 after analysing what structures and institutions were in place all over Europe. He added that the two European countries without a SD strategy were not necessarily doing worse than those which had a strategy. “What I intend to do is to translate 17 SDGs into a coherent and understandable narrative. We need to communicate better. Seventeen SDGs are not the best thing for communication and there are even contradictions between the goals. We need holistic approaches if we want sustainable development on this planet. Too often we have just focussed on one area. The aim of the report is to politically convince both governments and people.”

Members of the audience raised the importance of “accountability” for the implementation of a transformative agenda, while others mentioned the use partnerships and the need for “direct access” to decision makers. One NGO raised the question of the growing uneducated male workforce and suggested the need for a “citizen salary system – where people get money every month no matter what they do”.

Rijnhout asked about creating ownership of the SDG process. “The 2030 Agenda received very little media attention,” said **Berger**. “We need a narrative on agenda2030 that is so strong that it gets out there. We need the media on side. If we just talk within our community it will be difficult.”

Rijnhout then wondered how to “structure these holistic goals in our institutions”. **Falkenberg** said that the 17 goals were “all meaningful and collectively they stand for a transformative agenda”. In terms of participation in governance, Falkenberg said that we need “representation as it is not manageable to have everyone directly involved – there are simply too many of us”. But he added: “I wish we had wiser and more carefully chosen governments as they are accountable to their electorate. NGOs are representing a part of the society but not the entirety. In terms of accountability there is a difference between an elected representative and someone from civil society.”

2.6. Parallel break-out session 3: Rule of law

The rule of law is a defining characteristic of any civilised democratic society, and effective implementation and enforcement of the laws that exist is a fundamental aspect of the rule of law. Few will dispute this, and indeed the broad consensus among political leaders on the importance of better implementation and enforcement is well reflected in the Seventh Environmental Action Programme which commits to giving top priority to improved implementation of the EU’s environmental acquis by Member States through a number of specific actions. The EU has an

impressive body of environmental law and fully implementing it would not only help to protect the environment, but would also restore citizens' trust in the EU. Despite this, there is a general reluctance to take the concrete steps which would bring about better implementation, for example by increasing enforcement capacity, putting in place more transparent monitoring mechanisms and coming forward with long-awaited legislative proposals on access to justice and environmental inspections. As a result, the enforcement record in the environmental sector remains poor. The rule of law also implies greater transparency and accountability of the EU institutions, with the rights of access to information, participation and access to justice being underpinned by effective laws. Unfortunately the failure to address public concerns in this area tend to reinforce the perception that the EU is more about creating a corporate Europe than a citizens' Europe and to add weight to the rise of Euroscepticism.

Moderator: **Stephen Stec**, Adjunct Professor at the Central European University.

Rapporteur : **Ana Barreira**, Director and founding member of Instituto Internacional de Derecho y Medio Ambiente (IIDMA)

Speaker: **Liam Cashman**, senior legal expert working with DG Environment in the European Commission.

Speaker: **Jerzy Jendrośka**, President of the Polish Environmental Law Center

Olivier Hoedeman, research and campaign co-ordinator at Corporate Europe Observatory (CEO),



Liam Cashman opened the panel by explaining how the Commission tackles legal issues. He underlined that there were different types of legislation, from regulations to directives, and different actors ranging from national governments to regions, and different actions including incentives, restrictions and bans. “This makes the rule of law quite difficult to monitor,” he said, with some of the problems including “transposition, inertia, lack of political will or incorrect application of the law.” In order to see how accountability can be improved, the Commission will issue an initiative on access to justice, possibly a communication or a directive, later in the year, said Cashman. He suggested that inspections were only part of the answer to the problems in environmental areas. “Changing non-compliant behaviour involves monitoring, compliance promotion and criminal, administrative and civil enforcement,” he said, adding that “compliance assurance means risk-assessing problems, deploying the right mix of monitoring, promotion and enforcement and ensuring good co-operation and coordination between authorities”.

Jerzy Jendroska said that in the US, the system says that if the government doesn't have the resources, civil society can take up the torch, but noted that this is not possible in the EU. "Enforcement is essentially an administrative issue, not a criminal issue," he added. "The most common result is a fine and this isn't enough." Further, "civil society does not have the means to challenge a decision taken by the Court of Justice" and "very few incorrect transpositions of EU directives are followed up by the Commission. If the Commission can't take the member state to court, who will? Citizens should have the funds available to do so."



Olivier Hoedeman welcomed the decision by Commission President Juncker to make the transparency register obligatory, saying there was now more transparency about who is lobbying whom and when. "But industry lobbyists still outnumber NGOs by 15-1," he stated. Further, "75% of meetings of the Commission are with industry. The car industry employs over 100 people for lobbying Brussels-based decision-makers and spent around €40m on lobbying last year." All this leads to a "risk of regulatory capture," said Hoedeman, citing CARS21 as an example of an initiative of the Commission which was "totally dominated by the car industry". With this in mind, **Hoedeman** said that the proposed Directive on Trade Secrets was "incredibly dangerous" as it would mean that there would be no disclosure of what people are saying in meetings where decision-makers are being lobbied.

Discussion

The audience posed questions about how the Commission launches infringement proceedings and whether these were managed by political priorities. **Cashman** answered by saying that priorities are not political but are evidence-based and determined according to the size of the problem. As to why there were no National Emissions Ceilings Directive infringements, the Commission considered infringements of the Ambient Air Quality Directive more important. The first step, before taking a country to court, was to essentially start a friendly exchange. If, during this exchange, the member state's answers do not satisfy the Commission, it can then take the member state to court.

There was also a specific question from the audience about why the most polluted regions had been left out of the pilot (informal exchange) started with Italy on air quality. **Cashman** said he did not have information on that particular case, but reiterated that the Commission's decisions were based on evidence and were not political.

Ana Barreira asked about the number of Commission officials involved in enforcement of existing environmental legislation. **Cashman** said about half of the staff at DG Environment were working on enforcement and the other half on new initiatives.

2.7. Wrapping up: How to live well within the limits of the planet

The rapporteurs from the three parallel break-out sessions fed back to the plenary and EEB Secretary General Jeremy Wates summarised the key points from them (please see below) after inviting **Karmenu Vella, EU Commissioner for the Environment, Maritime Affairs and Fisheries** to give the closing keynote speech on “Delivering better lives within planetary boundaries - hand in hand”.



Vella opened his speech with what he said was a “very simple idea,” namely that “we cannot have a sustainable EU without a sustainable environment”. He insisted that the “Commission understands this” and that it would be “resolute” in honouring this objective. Success relied on action from a “wide range of stakeholders”. He noted the letter he had been sent at the beginning of his mandate from President Juncker and its stress on how “protecting the environment and competitiveness go hand-in-hand”. Vella said

these were “reassuring words for people who care about the European environment and keeping sustainability on the EU agenda”. He added: “we have many of the tools that we need” to live well within the limits of the planet and drew attention to the 7EAP. This was “not just something that we publish and put in drawer – it has full backing of Member States in Council,” he said. “Thanks to the 7EAP we know the direction we want to travel and how far we have to go.” Further, the EU now has a “clear global framework” with agreement on the SDGs, said Vella. He called the latter “unparalleled,” insisting that they did more than reaffirm existing commitments and would mean “more action”. The EU showed “decisive leadership when the SDGs were being negotiated; we now need to lead on implementation,” he said.

Vella then moved to discuss the forthcoming circular economy package, saying it would enhance the sustainability of the economy and reduce the EU’s ecological footprint. He sought to reassure attendees about the Commission’s “commitment” to the environment and its “determination to succeed in practice”. He acknowledged that “some legislation does not work,” but stated that the Commission was working with Member States to change this. “We are not an enforcement agency, but we know how to get things done,” he said. This means “engaging more actively” with, for example, inspections. “It means ensuing proper enforcement when rules are breached,” he added. “We have a big stick that we don’t like to use, but we use it when we have to do. We need to be legislators and facilitators to get results out of legislation.”

He underlined the need for a “joined-up approach” to protect biodiversity that was under threat, and the need for “effective access to justice for all” and said this was an area where “intensive reflection inside the Commission” was called for. Vella reiterated Juncker’s belief that “protecting

the environment and competitiveness go hand-in-hand” and that it was necessary to “send the right signal to the markets, introduce taxes to encourage change and raise money for the national coffers that could allow governments to cut labour taxes”. He added that “harmful environmental subsidies exist and persist” and that the Commission was “looking at the next steps” in how to deal with this issue.

“If we want to become competitive, we need to push eco-design,” said the Commissioner. “Our businesses are pushing some of the best solutions.” In order to help roll these out in the market, Vella cited the Juncker investment plan for the EU, adding that there were other EU funds being used to this end. The “more we contribute, the more support we get,” he said, noting that this was a “key principle of sustainable development in the 7EAP”.

Vella also said that the EU needed to be better at “blowing our own trumpet” and showing that what is “good for the environment” is also good for “jobs, growth and health and well-being”. He noted the increased number of Europeans working in the “green growth sector” and said that this industry also had “significant export potential”. Further, Brussels needed to work with regions and cities to ensure that best practice is copied. “Knowledge is made to be shared,” said the Commissioner.

Turning to Better Regulation, Vella said that this was a “forward-looking agenda” based around changing policies so that they responded to “real needs” and could be “implemented economically”. This call was being answered through the REFIT project, he said, acknowledging that it was now the turn of the nature directives, but that the Commission was aware of the “widespread support” for these laws. In general, the “implementation of environmental legislation is far from perfect” and “Better Regulation is there to support and help”.

In conclusion, “when we look at the environment today, we cannot afford to be satisfied,” said Vella. He deemed the area as a “work in progress,” but insisted that the protection of natural resources was “progressing” and that the EU possessed the “secret weapon” of having “millions of EU citizens” wanting and working for a better environment and sustainable development. “Your members should draw on that strength so that we can meet these expectations together.”

Jeremy Wates responded to Vella by welcoming his strong expression of commitment to the 7EAP and underlining the EEB’s willingness to work in partnership in delivering on the 7EAP commitments. Recalling the widespread concern among environmentalists at the announcement of the Juncker priorities and during the first months of the new Commission’s mandate, Wates highlighted a number of key forthcoming opportunities for the Commission to demonstrate its commitment to sustainability and the environment.



- An ambitious **circular economy package** could deliver a “win-win-win for jobs, people and the environment”.

- The Commission should listen to the message of more than half a million people that the **nature directives** should not be reopened; rather they should be better implemented, enforced and financed.
- The ongoing negotiations on the National Emission Ceilings directive provided an opportunity to prevent literally tens of thousands of premature deaths from **air pollution** each year.
- The EU should show leadership at CoP-21 and in the follow-up to it by strengthening its commitments to measures addressing **climate change**.
- At a more horizontal level, the **implementation of the SDGs** in Europe should have a transformative effect on Europe's political priorities.

Without attempting to be comprehensive, Wates recalled some of the salient points to emerge under the three main themes of the conference.

With respect to **better regulation**:

- Introducing binding laws to tackle environmental problems is something that the EU has been good at, and many problems cannot be solved without an approach based on regulation. This has resulted in what is often referred to as a 'mature legal framework' for environmental policy, though still some gaps – on soil, on access to justice – remain.
- There was widespread concern that the 'better regulation' agenda as pursued by the European Commission and certain Member States is in fact a deregulatory agenda designed to serve short-term business interests rather than the greater societal good and will have the effect of slowing down and at worst reversing the achievements of European environmental policy.
- There was broad support for a more evidence-based approach to better regulation, with reference made to the lack of any correlation between the stringency of environmental policy and the levels of regulatory burden.
- Free trade agreements and in particular TTIP were seen as a significant source of threat to Europe's ability to maintain and further develop its legal standards of environmental and social protection.
- The influence of the business lobby was a recurring theme in the discussions, with concerns expressed about the 'dieselgate' scandal and the revolving door phenomenon and calls for more transparency. On the other hand, it was important for progressive business to make its voice heard and not leave it only to BusinessEurope to represent the sector.

With respect to **governance for sustainability**:

- The 2030 Agenda for Sustainable Development incorporating the SDGs presents a great opportunity to mainstream sustainability into European policies.
- The SDGs are widely seen as ambitious and comprehensive, being much more than a continuation of the MDGs. They imply a need to transform the EU's high-level policies, as reflected in the Juncker Political Guidelines, the Europe 2020 Strategy and the EU SDS, but an implementation plan is also needed together with effective tools for monitoring progress. This should aim to break down silos and provide for full engagement of civil society.
- All speakers agreed on the need to change the economic model, with some referring to it as 'broken' and a source of inequality and unhappiness while others asserted that sustainability and growth should be seen as allies not opponents.



- Addressing the social dimension is key. The jobs created should be decent jobs. Tackling poverty globally is a major challenge, not made easier by the increase of global population to 10 billion over the next few decades, but poverty is also a problem in the EU.

With respect to the **rule of law**:

- The dieselgate scandal, brought to light by US authorities, has highlighted a major failure of enforcement in Europe, raising issues that go much broader than VW or vehicle emissions.
- Better implementation and enforcement are fundamental to the rule of law. The EU has committed to concrete measures to improve implementation and enforcement through the 7EAP.
- To deliver on the 7EAP, the Commission should come forward with new legislative proposals on compliance assurance/environmental inspections and access to justice. Effective access to justice provisions can empower an army of citizens and NGOs to support enforcement efforts.
- To ensure rule of law at EU level and compliance with the Aarhus Convention, the Aarhus Regulation should be strengthened.
- The number of cases of Member States being taken to court should raise concerns not so much about the judicial system but about the poor levels of compliance. Weakening or failing to strengthen legislation is not an appropriate way to reduce the numbers of infringement cases.

Concluding, Wates said there were some reasons for hope but that it was important for the environmental movement to remain vigilant. He thanked all the speakers, moderators, rapporteurs and participants for their active participation and closed the conference.



About the European Environmental Bureau

The European Environmental Bureau (EEB) is the voice of environmentally conscious citizens in Europe, standing for environmental justice, sustainable development and participatory democracy. We want the EU to ensure all people a healthy environment and rich biodiversity, in and outside Europe. Established in 1974, the EEB works in close cooperation with the over 140 member organisations present in more than 30 countries, to advance ambitious environmental and sustainability policies in Europe.



Supply Cha!nge project : Make supermarkets Fair ! Photo exhibition at the EEB Annual Conference

The EEB is a partner of the Supply Cha!nge project that aims to put pressure on European supermarkets to address social and environmental issues in their supply chains. The supermarkets' share of the retail market has increased and the sub-section of their private labels already represents 40% of the EU market. This has given them increased power over suppliers – but with power comes responsibility and accountability. Within the project, that takes place during the European Year for

Development (EYD2015), a Europe-wide photo exhibition was organised asking consumers to share their vision of a better and more sustainable food system. An exhibition with some of the photos from the competition was organized in Flagey during the EEB Conference. For more information, check out the project website: www.supplychainge.org

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ANNEX – LIST OF PARTICIPANTS EEB ANNUAL CONFERENCE 2015

Last Name	First Name	Job Title	Organisation
Our speakers and moderators			
Albrizio	Silvia	Economist	OECD
Ankersmit	Laurens	Trade & Environment Lawyer	ClientEarth
Barreira	Ana	Director	IIDMA (Instituto Internacional de Derecho y Medio Ambiente)
Berger	Gerald	Senior Researcher	Institute for Managing Sustainability
Calleja Crespo	Daniel	Director General - DG Environment	European Commission
Cashman	Liam	Senior Expert	European Commission
Davis	Jacki	Managing Director	Meade Davis Communications
de Pous	Pieter	EU Policy Director	European Environmental Bureau (EEB)
Dings	Jos	Director	Transport & Environment
Falkenberg	Karl	Senior Adviser on sustainable development to the European Political Strategy Centre	European Commission
Helfferich	Barbara	Director	European Anti-Poverty Network
Hoedeman	Olivier	Research and Campaign Coordinator	Corporate Europe Observatory
Jendrośka	Jerzy	President	Environmental Law Center, Poland
Karlsson	Mikael	President	European Environmental Bureau (EEB)
Maggi	Riccardo	Member of Cabinet - Cabinet First Vice President	European Commission
Mulder	Joost	Head of Public Affairs	Finance Watch
Niestroy	Ingeborg	Associate	International Institute for Sustainable Development
Reuter	Katharina	Managing Director	UnternehmensGrün e.V.
Rijnhout	Leida	Director Global Policies and Sustainability	European Environmental Bureau (EEB)
Schönrock	Philipp	Director	Centro de Pensamiento Estratégico Internacional (CEPEI)
Scott Cato	Molly	Member of the European Parliament	Group of the Greens/European Free Alliance
Stec	Stephen	Adjunct Professor	Central European University
Vella	Karmenu	European Commissioner for Environment, , Maritime Affairs and	European Commission

		Fisheries	
Wates	Jeremy	Secretary General	European Environmental Bureau (EEB)
Weidenhaupt	André	Director General	Ministry of Sustainable Development and Infrastructure, Luxembourg
Our conference participants			
Ågren	Christer	Air Pollution Expert	AirClim
Albrizio	Mauro	European Affairs Director	Legambiente
Altmayer	Anne	policy analyst	EPRS/European Parliament
Amand	Michel	Director	Service public de Wallonie
Anastasio	Mauro	Communications Assistant	Green Budget Europe
Andrusevych	Andriy	Senior Policy Expert	Society and Environment
Anvegård	Christine	Project assistant and communicator	SWEDISH NGO OFFICE FOR NUCLEAR WASTE REVIEW
ARAPIS	GERASSIMOS	Board Member	ELLINIKI ETAIRIA - GREECE
Arditi	Stephane	Policy Manager	European Environmental Bureau (EEB)
ARMENGOL DE LA HOZ	TERESA	Young Regional Ambassador	FEDRA
Azau	Sarah		Global Call for Climate Action
Ballesteros	Marta	Principal Legal Advisor	Milieu
Balsemão	Joana	Attaché for environmental issues	Portuguese Permanent Representation to the EU
Balsmeyer	Heiko	Coordinator Clean Air	Verkehrsclub Deutschland (VCD)
Barczak	Piotrek	Policy Officer: Waste	European Environmental Bureau (EEB)
Bas-Defossez	Faustine	Senior policy officer agriculture and bioenergy	European Environmental Bureau (EEB)
Bellomo	Luca	Student	College of Europe
Bendik	Gabor	lawyer	Clean Air Action Group
Benedicte	Gilloz	policy officer	French Ministry of ecology and sustainable development
Berthier	Anais		clientearth
BESSIERES	Elise	Policy officer	Representation of the French Region Limousin
Beys	Olivier		WWF Belgium
Bienstman	Mathias		BBL
Birt	Arlene	Visual Storyteller	Background Stories
Bizani	Eri		ECOCITY
Bjornholm	Ulf	Head of Office UNEP	UNEP - United Nations Environment

		Brussels	Programme
Blondeau	Marjolaine	Standardisation Officer	ECOS
Bonine	John	Chair of Executive Board	Environment-People-Law
Borhaug	Marte		Aviva
Bourgeois	Marie	expert	Public Administration of Wallonia
Bourguignon	Didier	Policy analyst	European Parliament
Branco	João		QUERCUS ANCN
Brandt	Lea Stoustrup	Stagiare	PERMANENT REPRESENTATION OF DENMARK TO THE EUROPEAN UNION
Brauns	Carsten		Committee of the Regions
Brizga	Janis	Chair	Green Liberty
Brunner	Ariel	Head of EU Policy	BirdLife Europe
Brusasco-Mackenzie	Margaret	Senior Adviser	Institute for Environment and Security
BUDRIO	BRUNO		
Bugge-Mahrt	Brianda		Teneo Strategy
Burgess	Thomas	Policy Advisor	ERRT
Burnotte	Augustin		Freelance
Buurman	Rob	Policy officer	Bond Beter Leefmilieu
Carniel	Laura	Officer	ICLEI Europe
Cerimagic	Enes		Zelena akcija / Friends of the Earth Croatia
Charalambous	Doria	Board Member	FOE Cyprus
Cioci	Grazia	Deputy Director	Health Care Without Harm Europe
Constandache	Cristina	Finance Officer	European Environmental Bureau (EEB)
Coutinho	Maria	Student	College of Europe
Crisp	JAMES	Journalist	EurActiv
Cupidon	Blandine	EU Ecolabel Coordinator	European Environmental Bureau (EEB)
Cvijanovic	Vladimir		Group 22
Daia	Irina	Project Manager	CEDD - Center for Sustainable Development
D'Angelo	Fabrizio	EMAS Officer	European Economic and Social Committee
DAVID	Hubert		Honorary member European Environmental Bureau (EEB)
De Baere	Rik	head of unit	Flemish environment department
De Jesus	Isabel	Finance&Personnel Manager	European Environmental Bureau (EEB)
De Mulder	Jan	Attaché Public Governance	PermRep Belgium to EU/Flanders delegation
de Sadeleer	Nicolas	Prof Dr	university
De Snijder	Pepijn	Policy Officers Agriculture	Bond Beter Leefmilieu
de staercke	MARC	chairman	EFCF

Dedikova	Nadya	Graduate	PLANET Europe
Degallaix	Laura	Director	ECOS
Delahay	Richard		Sustainability Consult
Dlouhy	Jiri	Chairman	Society for Sustainable Living
Do	Thao		IDG VIETNAM
Dom	Ann	Deputy Director	Seas At Risk
Domingues	Ana Rita		EESC
DUBROMEL	MICHEL	VICE PRESIDENT	FRANCE NATURE ENVIRONNEMENT
Duhme	Kerstin	Senior Managing Director	FTI Consulting
Duprez	Louise	Senior Policy Officer: Air and Noise	European Environmental Bureau (EEB)
East	May	CEO	CIFAL Scotland
Ehn	Kitty		Fältbiologerna (Nature and Youth Sweden, youth organisation of the SSNC)
Eisma	Doeke		Former MEP
Ekebom	Jan	chairman	Finnish Society for Nature and Environment
Eksten	Rickard	Senior EU Policy Executive	Scotland Europa
Eräjää	Sini	EU Bioenergy Policy Officer	EEB and BirdLife Europe
Eriksson	Aleksandra		Press
Ernstth	Emma	Development Officer	European Environmental Bureau (EEB)
Fay	Eszter	Institutional Affairs	European Environment Agency
Fenton	Pat	Environment Attaché	Irish Permanent Representation
Filcak	Richard	Policy Officer Aarhus Convention and Neighbourhood Policies	European Environmental Bureau (EEB)
Fjeldheim	Jonas	Counsellor for Environment	Mission of Norway to the EU
Fogu	Giorgia	Trainee	Committee of the Regions
Freytag-Rigler	Elisabeth	Director	Federal Ministry of Agriculture, Forestry, Environment and Water Management
Frickel	Wietse	Communications assistant	European Environmental Bureau (EEB)
Friel	Anne	Lawyer	ClientEarth
Geiger	Astrid	Head of Sector	Executive Agency for SMEs
Genand	Lore	Administrator to the European Political Strategy Centre	European Commission
Gerometta	Anna	President	CITTADINI PER L'ARIA
Godwin	Simon	Director	Impact Assessment Institute
Gogvadze	Gocha	Chairman	International Association TIP

Goicoechea	Sonia	Project officer	European Environmental Bureau (EEB)
Golec	Agata		Institute for Sustainable Development
Golubovska-Onisimova	Anna	Head of Coordination Board	UNENGO "MAMA-86"
Graf	Andreas	Researcher	Ecologic Institute
Groen	Ronald	Advisor Environmental Law	
Grubišić	Ivana	Lawyer	Association Sunce
Hajdu	Klara	Senior Policy Officer	CEEweb for Biodiversity
Hartung	Natalia		College of Europe
Hayward	Victoria	European Advisor	UKRO
Heyman	Jan	Senior Adviser	Environment, Nature & Energy Department of the Flemish Government
Horvath	Balazs	Senior Policy Officer: Water and Soil	European Environmental Bureau (EEB)
Howard	Gregory	Assistant Professor of Environmental Studies	Dickinson College, Carlisle, PA, USA
Hunter	Jack	Communications	European Environmental Bureau (EEB)
Izquierdo	Eva	Global Policies Intern	European Environmental Bureau (EEB)
Jemelkova	Ivana	Senior Director	FTI Consulting
Jennings	Patricia	Head of policy & communications	Chartered Institution of Wastes Management
Jian	Dong		Green Collar Tianjin, China
Jobstl	Roland	Policy Officer: Energy and Climate	European Environmental Bureau (EEB)
Kalusch	Oliver		Bundesverband Bürgerinitiativen Umweltschutz, BBU, Germany
Keich	Franziska		UnternehmensGrün e.V.
Kelly	Sean	Parliamentary & Development Officer	Northern Ireland Environment Link
KIM	Min Hyung		Sciences Po Paris
Klemm	Christiane	External Relations Officer	Youth and Environment Europe (YEE)
Knox-Peebles	Leonie	Senior policy adviser	PlasticsEurope
Kohan	Honey		ECOS
Kohl	Andrea	Deputy Director	Deputy Director
Kohnen	Marguy	Conseiller de direction	Ministère du Développement durable et des Infrastructures
Kolodziejaska	Aleksandra	Secretariat	European Environmental Bureau (EEB)
Kontaxi	Christina	Environ-mentalist	MEDITERRANEAN SOS NETWORK
Kowal	Katarzyna		Regional Office of Westpomerania
Kriekouki	Aliki	Technical Officer: Industrial Production	European Environmental Bureau (EEB)

Kruzikova	Eva	Director	European Commission
Kuze	Jānis	Chair of the Council	Latvian Fund for Nature
la Cour	Jens		Danish Society for Nature Conservation
La Scola	Paolo	Eu Public Affairs	Novamont
Labriga	Lisa	Project Manager	ACR+
Lalani	Mustan	Manager Environment Affairs	Tetrapak
Laudelout	Tanguy	Adviser	Euros / Agency
Lombrana	Abraham	Secretary and Seminar Co-ordinator	European Environmental Bureau (EEB)
Longworth	Giuliana		ACR+
Loos	Robin		College of Europe
Louwers	Pieter	Graduate	PLANET Europe
Lymberidi-Settimo	Elena	Project Manager Zero Mercury Campaign	European Environmental Bureau (EEB)
Macintosh	Emily	Communications Officer for Nature and Agriculture	European Environmental Bureau (EEB)
Maier	Matthias Leonhard	Policy Officer	European Commission, DG ENV
Majer	Alexander	EU & Governmental Affairs Intern	PlasticsEurope
MALACHE	Jacques	Senior Director	International PRESS Agency
MALGAJ	MATJAZ	HEAD OF UNIT	EUROPEAN COMMISSION
Mang	Sebastian		Greenpeace
Mannes	Eric	Advisor	Minister of Environment of Brussels
Martin	Roger	Chair	Population Matters
Mattera	Marianna	Project assistant	LUDEN
Mazza	Leonardo	Senior Policy officer for biodiversity and ecosystem	European Environmental Bureau (EEB)
Mensink	Marco	Director General	CEPI (Confederation of European Paper Industries)
Meynen	Nick	Project Officer	European Environmental Bureau (EEB)
Mikadze	Tamta	Coordinator of International Affairs and Research	International Youth Association TIP
MIRELA	LEONTE	project manager	Eco Counselling Center Galati
Montanari	Fabio	Intern	Fair Trade Advocacy Office
Mutert	Tina		Federal Environment Agency Germany
Myles	Andy	Advocacy Manager	Scottish Environment LINK
Nastasi	Giuseppe	Legal Advisor	Milieu Ltd
Neale	William	Member of Cabinet VELLA	European Commission

Nicolaïdès	Julie	Policy Assistant to the European Political Strateg	European Commission
Nielsen	Annette Schneider	ENVIRONMENT COUNSELLOR	PERMANENT REPRESENTATION OF DENMARK TO THE EUROPEAN UNION
Nissinen	Jouni	Advocacy and Policy Officer/ EEB Vice-president	the Finnish Association for Nature Conservation
Notaro	Nicola		EC DG ENV
Nunes da Silva	Paula	Eng.	QUERCUS
Nuttall Jones	Philippa	Senior Communications Officer	European Environmental Bureau (EEB)
Nuvelstijn	Patrick	Coordinator European and international affairs	Natuurmonumenten
O'Hagan	Bronagh		An Taisce
Ojeda	Lilian	Policy Officer	RREUSE
OLAYINKA	BADMUS	RESEARCHER	SANDTON COLLEGE
Paavilainen	Marika	Councsellor	FinPermRep
Pant	Sebastien	Communications Officer	European Environmental Bureau (EEB)
Paparatti	Eva	Project Adviser	EASME
PAPOUTSOGLOU	DIMITRA	Intern	EEB
Payo	Hector	Reporting Manager	Greenpeace
Paz	Ana		LPN - Liga Protecção Natureza
Pekár	Ferenc	Policy officer	European Commission - DG ENV
Pernal	Maxime		CEWEP
Phokas	Theodoros	Environment Expert on EIA	Cyprus Government
Pirvu	Daria	RH	Agora for Life
Poliscanova	Julia		Transport & Environment
Pons	Genevieve	Director	WWF European Policy Office
Popescu	Mihaela		Agora for Life
Popovic	Andjela	Public Affairs Officer	Federaccia
Porcher	Fabien		European Economic and Social Committee
PRODANOVIC	SONJA	Board member	Res Publicae- indp. media REPUBLIKA
Proschek-Hauptmann	Michael	Managing Director	Umweltdachverband
Racinska	Inga	Council member	Latvian Fund for Nature
Raczyńska	Wiktoria		Environmental Law Center
Raum	Rita	Board Member	Natur&Ëmwelt LU
Reineke	Ninja	Senior Policy Adviser	CHEM Trust

Rietdorf	Lynn	Student	College of Europe
Ring	Geraldine	Director, Zero Waste Brussels	Miss
Riou	Gwendoline	Consultant	Interel
Riss	Jorgo	Director	Greenpeace European Unit
RIVIERE	JOSIANE	HEAD OF THE BRUSSELS LIAISON OFFICE	EUROPEAN ENVIRONMENT AGENCY
Rodriguez	Filippo		Enel
Röhrig	Klaus		Green Budget Europe
ROSA PLAZA	Pedro	Fontanero	European Plumbers
Roveran	Lavinia		Deutscher Naturschutzring
Ruiz Fuente	Nerea	Technical Officer	FEAD
Ruiz-Bautista	Carlota	Lawyer	Instituto Internacional de Derecho y Medio Ambiente (IIDMA)
Sandahl	Johanna	President	SSNC
Santos Otero	Tatiana	Senior policy officer - Chemicals and nanotechnology	European Environmental Bureau (EEB)
Saudmont	Anne	Policy Officer	IBGE - BIM
Schaible	Christian	Policy Manager on Industrial Production	European Environmental Bureau (EEB)
Schally	Hugo	Head of unit	European Commission
Schmid	Marylise	Student	International Master in European Studies
Schneider	Regina	Head of membership and Enforcement	European Environmental Bureau (EEB)
Schonmaker	Astrid	Director for Strategy of DG Environment	Director for Strategy of DG Environment
Schram	Tom	Counsellor	Permanent Representation of Luxembourg to the EU
Sigchos Jiménez	Fernando	Policy & Communication Assistant	European Builders Confederation
Silina	Mara		European ECO Forum
Simon	Joan Marc		Zero Waste Europe
Šinkovec	Aleš	Senior Account Manager	Logos Public Affairs
Sjögren	Helena	Advisor Bioenergy	Swedish Forest Industries Federation
Skalsky	Martin	member of executive board	Arnika
Slabe	Anamarija	Director	Institute for sustainable development
Steeghs	Jeroen	Head Environmental and Nature Policy Section	Permanent Representation of the Netherlands
Steffens	Raiennr		Representation of the State of North Rhine-

			Westphalia to the European Union
Stock	Anke	Senior Specialist Gender and Rights	WECF
Stoczkiewicz	Magda	director	Friends of the Earth Europe
Stumpf	Emilie		CECED
Sult	Ingrid Alexandra	Trainee	SG Council of the European Union (DG E)
Sundberg	Viktor		Electrolux
Suska	Pavel		SOCIETY FOR SUSTAINABLE LIVING IN THE SR
Telgmaa	Juhan	Vice-President	Estonian Society for Nature Conservation
Theuma	Hubert	Council Member/Legal Advisor	Nature Trust (Malta)
Thies	Jean-Claude		FSE - Fédération Spéléologique Européenne
Thind	Puninda		University of Waterloo
TOBIAS Y RUBIO	ANDRES	POLITICAL ADMINISTRATOR	COUNCIL OF THE EU
Toffoli	Jessica		ICLEI Europe
Tolotto	Margherita	Zero Mercury	European Environmental Bureau (EEB)
Toubeau	Cecile	Senior Better Trade and Regulation Officer	Transport & Environment (T&E)
Ui Bhroin	Attracta	Vice Chair	An Taisce
Vahtrus	Siim	Chairman	Justice and Environment
Van Ermen	Raymond	Advisor	European Partners for the Environment
van Iterson	Rannveig		Bellona Europa
Varga	Attila		FoE - Hungary - National Society of Conservationists
Versmann	Andreas	Administrator	European Economic and Social Committee
Vikström Olsson	Sara	Board member	Swedish Society for Nature Conservation
Villena Martínez	Maria Magdalena	Geography, European Union expert	University of Alicante
Vlastari	Dafni	Manager	Burson-Marsteller
Vogel	Bärbel		German Speleological Federation VdHK
Wachholz	Carsten	Resource use and Product Policy officer	European Environmental Bureau (EEB)
Wakenhut	François	Head of Unit F.1	European Commission, DG Environment
Walker	Mike	Communications Manager	The Pew Charitable Trusts
Walsh	Dave	Communications and Campaigns Advisor	Cold Reality
Willems	Jef	Communications Assistant	Sustainability Consult
Witmer	Maria	Senior advisor European affairs/Global water manag	PBL Netherlands Environmental Assessment Agency

Yildiz	Hale		College of Europe
Zamburlini	Maria Giovanna		no affiliation
Zeitler	Helge		European Commission
Zlanabitnig	Bernhard	Director	EU-Umweltbuero/Umweltdachverband
Zujic	Aleksandra	Project manager	SREDINA – ASSOCIATION OF CITIZENS