

The 6EAP in setting of Climate Change, Competitiveness and Better Regulation

John Hontelez, Secretary General EEB, 11/6/09 at Conference on “Strategic Perspectives for the Future of EU Environmental Policies” in Prague.

For the EEB, the Commission draft for a 6EAP nine years ago was worrisome. It focused on process rather than outcomes, on discussion rather than measures. The draft presented a view of a Commission that was not sure anymore how much it could lead, also in view of the upcoming enlargement. The EEB therefore called upon the European Parliament and Environmental Council to strengthen the Decision on the 6EAP, in particular by putting more targets and timetables in the Programme, promoting the basic principles of env policy: prevention, precaution, polluter pays, and also by setting a deadline for the delivery of the Thematic Strategies, central to the Programme.

The EEB was concerned about these Thematic Strategies, especially in areas where it was fairly clear what needed to be done at the EU and national levels. In the end, most of them came together with proposals for legislation, which made the exercise more useful. The 7th Strategy, demanded by the European Parliament and the Environment Council, on urban environment, did not come with such legislation, but instead was severely criticized by members of the Parliament and Council for ignoring subsidiarity. How short the memory of these institutions can be! The fate of this Strategy shows what we meant with our fear: the Strategy was discussed, Parliament and Council Conclusions were drawn at that is the last we have seen of it.

Strategies with more teeth faced opposition. Remember the pressure President Barroso put on Commissioner Dimas not to publish the first one, on airpollution. Barroso was mobilized by UNICE, now BusinessEurope, as it felt the measures proposed would be too costly for EU industry in the framework of global competitiveness. This argument also showed how relative impact assessments can be: the assessment concerned showed that all scenarios for tightening up emission limits were on balance positive for society. This measurement was made on the assumption of a certain economic value of a life saved with measures against the costs to be made for compliance. Ofcourse it remains a cynical exercise to put a price on a human's life, but for business counted that the benefits are for society as a whole, where the costs have to be borne by the industry.

Dimas resisted the pressure, and this was the first signal of that we were going to have a good Commissioner for Environment. And he fought for the Air Quality Directive that went with it, against the pressure coming from part of the Member States and local authorities, who found a willing ear with the European Parliament. After this Directive we had some more progress, such as the Fuel Quality Directive and Euro-V and Euro-VI, and the proposal for a merger of seven directives, including the IPPC in one, while at the same time a slight strengthening of their functioning. But the important concluding piece, long overdue, on National Emission Ceilings, has not seen the light of day, victim of the priority given to climate change in the last two years.

The Air Quality Directive ended up to be the first one where earlier ambitions were compromised, but not thanks to the Commission. With the Waste Framework Directive and the Thematic Strategy on Waste Prevention and Recycling, the roles were opposite. The Commission, proposed less ambitious aims, simplifying the waste hierarchy and partly re-nationalising waste policies by giving more responsibility to member states for their development. The Commission used arguments such as the need for flexibility and a case-by-case Life Cycle approach. Both the Environment Committee of the European Parliament and a number of New Member States resisted this, thinking that the new system would complicate practice and put too little emphasis on prevention, re-use and recycling for the Waste Framework Directive, and deploring the absence of targets for the Thematic Strategy. However, the Commission did not give in and so did a majority of Member States, and at the end the EP gave up an important part of its original position.

The most recent product was the Thematic Strategy on Natural Resource Use. Another one that had a short life of attention, as it did not come with legislation. More attention got the succeeding Action Plan on Sustainable Consumption and Production and Sustainable Industrial Policy. From the EEB side mainly because of its limited scope. But indeed, here we are touching on the core problem for nowadays environmental policies: in order to limit and reduce EU's ecological footprint we need to penetrate sectoral policies where we make our biggest environmental impacts – in transport, agriculture, and housing - and even more: we need to find ways to reverse the trend of ever growing consumption of goods due to increasing prosperity and heavy and permanent advertisement fire. Focusing on “convenient

truths” such as efficiency and innovation are not going to be enough – we have already seen that the gains we make in efficiency improvements are undone by increased consumption. Fuel efficient cars are a good example – our cars use less petrol per kilometer but there are more of them on the roads and we drive them further than we used to.

My question to the Ministry representatives present here today: what impact this concept of Thematic Strategies has had for your work, both the process of preparation, the discussions on council conclusions and the follow up. Did it help you to make complex relations between issues more understood, did it help to mobilize more for environmental policies. In other words, was it worth the effort?

EEB managed to convince the Parliament and the Council to include the halting decline of biodiversity by 2010 target, but as we all know, this is not going to be respected. In this decade we have seen some progress in biodiversity protection, Natura 2000 areas being designated and management increased, but the old undermining factors such as urban sprawl and infrastructure development were accompanied with new ones, being climate change impacts, biofuels production, end of set-aside in agriculture policies, invasive species. An a big mistake was the refusal of the Commission to propose ring-fencing for EU-funding dedicated to the implementation of Natura 2000. Another mistake, now being made by a minority of Member States, is the blocking of a badly needed Soil Directive, also as a tool to protect biodiversity.

In one of the four priority areas of the 6EAP, the one for which no thematic strategy was foreseen, we have seen real progress. After a slow start, climate got the priority it deserved, but this has more to with people like Nicolas Stern and Al Gore than with the 6EAP. The 6EAP could build upon the Kyoto targets, which definitely has given climate policies a boost. The Energy/Climate Package is not a sufficient EU contribution to a successful strategy to keep global warming below 2°C, is too little too slow, but a start. Climate policies can have collateral advantages, such as on reduction of airpollution, increased emphasis on efficiency, river basis and ecosystem management to reduce the impacts, but it also can lead to increased pressures, such as with biofuels and with possibly extended use of coal due to combination with Carbon-Capture and Storage.

The 6EAP included proposals at several places to use market instruments to steer production and consumption patterns. It did not make it a big, horizontal priority though, and it never became one. We know the story since: even if this approach was re-inforced in the sustainable development strategy, little has come of it: No subsidies reform, no environmental tax reform, green public procurement only weakly promoted. Another piece with a financial incentive involved, on liability, was compromised from the start in the Commission, by refusing the financial security obligation, which would make the directive from one clarifying who pays damage once occurred to one that gives systematic incentives to prevent.

EEB was also concerned about the emergence of “Better Regulation” in the debate. It sounded good, and indeed, we also recognize that the EU environmental acquis is not ideal. There is no master design behind it, and most pieces are compromised in the decisionmaking process. Compromise often means complication: the targets are less straightforward, exemptions undermine their clarity and effectiveness and increase the administrative burdens. But the better regulation exercise was clearly not meant to make EU’s environmental policy more ambitious and effective. It came from the Lisbon Competitiveness and Growth strategy, with the sole objective to reduce non-market costs for EU business. A dossier that suffered in particular from the increasing pressure to water down environmental policies for perceived competitiveness and burden issues, was REACH. Thanks to Dimas we still have it, but the content and the current first indications for implementation, make us worry whether REACH is going to make the difference in health and environment protection it originally was meant for. And, in the implementation phase, the lead is with DG Enterprise rather than where it really belongs, in DG Environment.

As member of the High Level Group on Reduction of the Administrative Burden, or the Stoiber-Group, I have in the last year been confronted in more detail with this debate. The Action Plan of the Commission on Admin Reduction Burden had chosen five pieces of EU environmental legislation as part of a selection of 41 that all in all would present some 80% of the admin burden for business due to EU legislation. As rapporteur in the Stoiber-group for the environmental field, I am proud to refer to the report, approved on the 16th April this year¹, which has some useful, sobering conclusions about the environmental sector and its burdens for business:

¹ http://ec.europa.eu/enterprise/admin-burdens-reduction/highlevelgroup_en.htm

- the administrative burden caused by the environmental acquis for business is likely to be much less than 1% of the total burden caused by the EU acquis;
- EU environmental legislation is partly replacing individual national approaches and “This is why multinational businesses often argue for harmonization of requirements to lower their overall costs and create a level playing field.”
- The Commission is already quite successful in reducing the burden in this field.
- Goldplating is much less prominent than people think.

I hope this report can be used as ammunition against future attempts to discredit environmental policies as being anti-economic.

On integration and on enforcement:

Integration: is moving slow. In agriculture some attempts by Commission, such as on cross-compliance, but with a lot of resistance. In transport: this Commission refused for a long time to go beyond technical innovation. On energy: here there is integration indeed, due to the climate agenda. In the biodiversity field we need Green Infrastructures, meaning integration of biodiversity objectives into infrastructure and agriculture policies.

On Enforcement. The Commission came out with a Communication on this, helpful, late. DG Env tells us it is investing more and more in enforcement, and indeed, there are quite some cases with the Court of Justice, but we are still far from full implementation and enforcement. And there are major differences from region to region, for example regarding role of EIA's. We are glad the Commission keeps on pushing on Access to Justice Directive, less pleased with it giving up on access for NGOs to the European Court. More systematically, there needs to be openness about infringement procedures, and more use of interim measures as with the Rospuda Valley case.

TOWARDS A NEW PROGRAMME:

I would like to plea for a rapid start of work, public work, on the 7th EAP. For EEB 4 reasons to promote strongly a new programme and this debate:

1. Need evaluation of effectiveness of the 6EAP approach: framework legislation – thematic strategies; of effectiveness of integration policies so far.

2. Debate necessary on working systematically with targets and timetables in order to steer and mandate EU Environment Policy.
3. Create clarity on subsidiarity: Is devolution indeed better for business in the EU? Does it bring us the dimension of change needed? Will it strengthen the development of a green economy or not? Are regional differences as relevant as often said? Highlight the essential role of the EU for making progress.
- 4.. Claim a strong environmental dimension in future EU-Budget objectives and mechanisms.

In this debate we need:

- 21st century approaches – we know that 6,4bn people on the planet are over-using the Earth's natural capital, with Western, industrialized countries using more than 2/3 – we need policies that set absolute limits in order to come back within carrying capacity
- Focus on the big impact areas – transport, housing and agriculture, and on key sustainability issues of energy, natural resources (including water) and biodiversity
- Need a systems approach which does not look at products or processes in isolation, but addresses issues across the value chain (eg of housing chain creating weak or broken links that don't lead to E or sustainability improvements)
- Strong focus on legislation and enforcement: no law, no lasting impact. Introduce more dynamic tools, Top Runner, etc.
- Enforcement/implementation: stick and carrot
- Better regulation - lets get it over with: be bold to business and say: research shows: not worth undermining EU legislation (quote from my report).
- Finally focus on financial instruments: create pressure on MS that refuse this! Show it as market conform – connect it with single market.
- However, we have to admit that the biggest challenge, reducing our footprint substantially by changing consumption and production factors, needs a combination of top-down and bottom-up. We need not only technological innovation, but also social innovation! We recently produced a Blueprint for European Sustainable Consumption and Production, with social NGOs and the research community². In the document we propose some ways forward, some of which I mentioned in the list of key elements for a new programme.

² See www.eeb.org

- Finally, many Environment Ministries lend support for environmental organizations, at EEB, national and local levels. Despite the economic crisis, please continue with this. The political climate on environment is not improving, environmental NGOs are natural allies, do not weaken them!