



Brussels, 26 February 2009

BACKGROUND¹
ENVIRONMENT COUNCIL
Monday 2 March 2009

The Environment Council meeting will be held at 10.00 on Monday 2 March and will be chaired by Mr Martin Bursík, Deputy Prime Minister and Minister of the Environment of the Czech Republic.

*In the morning the Council is due to adopt conclusions developing the **EU position on an international climate protection agreement for the period after 2012**, as a contribution to the Spring European Council.*

*The Council will hold a public exchange of views regarding the recast of the directive on industrial emissions – **integrated pollution prevention and control**.*

*Over lunch, ministers will hold a **strategic discussion on the international climate change negotiations on the road to Copenhagen**, in the presence of Mr Michael Zammit Cutajar, Chair of the UNFCCC Ad Hoc Working Group on Long-term Cooperation Action.*

*After lunch, the Council will be invited to vote on Commission proposals to **lift the bans on genetically modified maize in Hungary and Austria respectively**.*

*In addition, the Council is expected to adopt **conclusions on environment policy** to be submitted to the Spring European Council.*

*Lastly, the Council is due to adopt the EU position at meetings of the **International Whaling Commission**.*

Press conferences: +/- 15.00 and +/- 18.00

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¹ This note has been drawn up under the responsibility of the Press Office.

Contribution to the Spring European Council - EU position on a comprehensive post-2012 climate agreement

The Council is due to adopt conclusions that develop the EU position on a global post-2012 climate agreement, with a view to the Copenhagen Conference in December 2009. These conclusions will for the first time be more specific on the subjects of financing, technology cooperation and capacity-building, which are key to the implementation of any future agreement.

Further elements of the position will include:

- action to mitigate climate change and EU expectations from developed, advanced developing and other developing countries in this respect;
- greenhouse gas emissions reductions in the global aviation and the maritime sector;
- the role of carbon markets in fighting climate change;
- the future role of Clean Development Mechanism (CDM) and Joint Implementation (JI) emissions reduction projects;
- adaptation to the negative effects of unavoidable climate change.

In this context, the Council will examine in particular the distribution of the mitigation effort among developed countries and ways of generating financial support for the fight against climate change.

The conclusions adopted by the Environment Council will serve as a contribution to the Spring European Council, which will establish orientations for the EU position for Copenhagen, on 19/20 March 2009. They are based on a communication from the Commission entitled "Towards a comprehensive climate change agreement in Copenhagen" ([5892/09](#)).

Since 2007 the EU has progressively developed its position on a global climate agreement of this kind and will continue to do so up until the Copenhagen Conference. Irrespective of any international agreement, the EU is already committed to a 20% reduction in its greenhouse gas emissions compared to 1990 levels by 2020. It is willing to go further and sign up to a 30% reduction target if there are comparable reductions by other developed countries and appropriate contributions by developing countries.

The [15th Conference of Parties to the UN Framework Convention on Climate Change](#) takes place from 7 to 18 December 2009 in Copenhagen and is expected to lead to a global climate change agreement that will come into force when the Kyoto Protocol expires in 2012.

Industrial pollution (public debate)

The Council will hold a public exchange of views on the recast of the directive on integrated pollution prevention and control (so-called "IPPC Directive", [5088/08](#)). Given that the European Parliament is scheduled to vote its first reading on 12 March, the Presidency intends to reach a Council common position at the Environment Council meeting on 25 June.

The discussion at ministerial level will focus on four key issues:

The role of BREFs

One of the core elements of the Commission's proposal is to strengthen the application of Best Available Techniques (BAT) compared to current legislation. BAT refers to the most effective and available emission reduction technology, as documented in European BAT Reference Documents (BREFs). The Commission believes that Member States have not implemented the current IPPC Directive properly by allowing too much divergence from BAT in the permits they deliver to industry. The proposed recast directive therefore envisages a more prominent role for BREFs in order to reduce the scope for national authorities to deviate from BAT in permitting.

Questions: Do Ministers agree that the role of BREFs in permitting should be strengthened? Do Ministers agree that competent authorities should ensure that BAT associated emission levels as described in BREFs are met? To what extent may competent authorities decide to deviate from this approach, in specific cases, where transparently justified?

Minimum requirements

The Commission's proposal integrates the IPPC Directive and several existing sectoral directives setting minimum requirements for specific activities into a single law. It does not apply minimum requirements to all the activities covered by the proposed directive but only to waste incineration and large combustion plants and emissions of solvents and titanium dioxide. However, the European Parliament is likely to suggest the possibility of adopting minimum requirements for further activities through the "comitology" procedure.

Question: Do Ministers favour the possibility of adopting further minimum requirements at EU level for other activities depending on the future update of BAT and the environmental impacts of the sectors concerned and, if so, through which procedure?

Large combustion plants

Large combustion plants comprise power plants as well as combustion installations in oil refineries and the metal industry. In order to further reduce pollution from these sources, the Commission proposes tightening the existing minimum requirements for them by bringing them into line with current BAT by 2016. This has raised concerns about the cost of upgrading these installations and about the security of energy supply.

Question: Do Ministers agree to bring the emissions from large combustion plants into line with current BAT by 2016, while at the same time introducing some measures to allow transitional flexibility until 2020 to take account of the specific circumstances of certain types of plants?

Scope

The proposal includes further activities within the scope of the IPPC Directive, e.g. combustion installations with a capacity of between 20 and 50 MW.

Question: Do Ministers support the extension of the scope?

The IPPC Directive seeks to prevent and control, in a coordinated way, pollution of the air, water and soil resulting from emissions from industrial installations. It regulates emissions of a wide range of pollutants, including sulphur and nitrogen compounds, dust particles, asbestos and heavy metals. The directive is aimed at improving local air, water and soil quality, not at mitigating the global warming effects of some of these substances. Emissions of carbon dioxide are not covered by IPPC.

At present, approximately 52 000 installations are governed by this piece of legislation, which seeks to promote the application of the Best Available Technology (BAT) and requires industrial operators to use the techniques that are most effective in achieving a high level of environmental protection. In December 2007, the European Commission proposed a recast of the current directive to enhance environmental protection and simplify the legislation in force. Seven overlapping directives are to be merged into a single act to reduce the administrative burden for industry and public authorities.

Prohibition of genetically modified maize in Hungary and Austria

The Council will be asked to vote on three Commission proposals seeking to lift the provisional bans on genetically modified maize (*Zea mays* L. line MON810) in Hungary ([5685/09](#)) and Austria ([6330/09](#)) as well as on *Zea Mays* L. line T25 in Austria ([6327/09](#)).

One of two outcomes can be expected:

- The Council rejects the Commission proposal with a qualified majority vote. This would allow Hungary and Austria to maintain their bans on the maize varieties in question.
- The Council gives no opinion. If the Council achieves neither a qualified majority in favour nor one against, the decision is referred back to the Commission, in accordance with the "comitology" procedure. This would mean that Hungary and Austria would have to lift their prohibitions on genetically modified maize.

As regards Hungary, this is the second time the Commission has suggested a repeal of Hungary's safeguard clause, which was notified in 2005. A similar proposal was rejected in 2007 by the Environment Council, allowing Hungary to maintain its provisional ban on the use and sale of MON 810.

Concerning Austria, the current Commission proposals cover only the use and sale of seeds of maize MON 810 and T25. Following a Commission decision of May 2008, Austria has already lifted restrictions on the import and processing into food and feed of both these maize varieties. That decision came in the wake of the Environment Council in October 2007, which failed to give an opinion on a renewed Commission proposal for removing the Austrian safeguard clauses. Previously, the Council had maintained the Austrian measures in the votes of June 2005 and December 2006 with a qualified majority.

Besides Austria and Hungary, both France and Greece have notified safeguard clauses with respect to MON810. The Standing Committee on the Food Chain and Animal Health, which assists the Commission in the assessment of such prohibitions, failed to give an opinion on the French and Greek measures at its meeting on 16 February 2009. This means that their safeguard clauses will probably be the subject of a vote at one of the upcoming Agriculture or Environment Council meetings.

MON810 is currently being assessed for authorisation in the Community under Directive 2001/18/EC. A previous authorisation under directive 90/220/EEC has since elapsed.

The main legislative text regulating the use of GMOs in Europe is Directive 2001/18/EC, Article 23 of which deals with safeguard clauses. At present, the only GM variety grown in Europe is Bt maize.

Contribution to the Spring European Council - General environment policy

The Council is due to adopt conclusions as a contribution to the Spring European Council on 19/20 March 2009.

The draft conclusions welcome the "green" measures suggested under the European Economic Recovery Plan. In this context, ministers still need to resolve the question as to which policy measures should be highlighted. Some delegations have, for instance, suggested mentioning the possibility for Member States to apply reduced VAT rates to ecological products and services. This is opposed by others on the grounds that, at the request of the December 2008 European Council, this issue is dealt with by the Ecofin Council.

In addition, the draft conclusions underscore the importance of sustainable consumption and production and urge Member States and the Commission to encourage sustainable behaviour among consumers and producers, e.g. through eco-design, extended environmental labelling or pricing that internalises the environmental cost of a product.

The draft conclusions also reaffirm the need for the sustainable use of resources and give a reminder of the difficult situation on the recycling markets, where there has recently been a dramatic fall in the demand for recycled materials. Depending on the discussion among ministers, the Council may call on the Commission to propose policy measures to address this problem.

Finally, the conclusions express concern at the loss of biodiversity in Europe and strongly underline the urgent need for additional efforts so as to reach the EU target of halting biodiversity loss by 2010. The text also voices the Council's concern about the effect of climate change on biodiversity and calls for further EU action in the area of biodiversity and invasive species.

Whaling

The Council is due to adopt the EU position at meetings of the International Whaling Commission (IWC). This is in preparation for the next inter-sessional meeting of the IWC (Rome, 9-11 March) and the 61st annual IWC meeting in Madeira in June 2009.

The Council will discuss the scope of aboriginal subsistence whaling, which can be permitted under certain conditions. In this context, it could also consider the protection of small cetaceans.

The duration of the negotiating mandate could also be raised; it is currently set to cover the next three annual meetings of the IWC plus related inter-sessional meetings.

Commercial whaling was suspended in 1986 as a result of a moratorium agreed by the majority of IWC members. However, leading whaling states contest this moratorium and continue to hunt cetaceans for scientific purposes and under other exceptions.

The International Whaling Commission, founded in 1946, is the competent international organisation concerning the management of whale stocks at global level. Currently, 23 EU Member States are parties to the International Whaling Commission.¹ As membership is only open to governments, the European Community has observer status and is represented by the European Commission.

¹ The EU countries which are not (yet) parties to the IWC are: Bulgaria, Latvia, Malta, Poland.