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THE EUROPEAN UNION**

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Subject : **2670th** meeting of the Council of the European Union (ENVIRONMENT), held  
in Luxemburg on 24 June 2005

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<sup>1</sup> Information relating to the final adoption of Council acts which may be released to the public may be found in Addendum 1 to these minutes.

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**1. Adoption of the agenda**

10133/05 OJ CONS 38 ENV 291

The Council adopted the agenda as contained in the above document.

**2. Approval of the list of "A" items**

10284/05 PTS A 33

The Council approved the "A" items listed in 10284/05.

Addendum 1 to these minutes gives information on items 1 and 2 on that list.

**3. Proposal for a Directive of the European Parliament and of the Council on the protection of groundwater against pollution**

– **Political agreement  
(Public deliberation)**

12985/03 ENV 477 CODEC 1254

10167/05 ENV 294 CODEC 515 OC 429

+ ADD 1

The Council reached political agreement by qualified majority, with Germany, Hungary, Italy and Sweden voting against. Agreement was facilitated by Presidency compromise proposals concerning in particular Article 6 (Measures to prevent or limit inputs of pollutants into groundwater) and the quality standard for nitrates, including a draft recital and amendments to Annex I. On the latter issue the Commission issued a statement which appears in Annex I to these minutes.

Statements by the four above-mentioned delegations will be annexed to the minutes of the Council upon adoption of the Council's common position.

**4. Proposal for a Directive of the European Parliament and of the Council establishing an infrastructure for spatial information in the Community (INSPIRE)**

– **Political agreement  
(Public deliberation)**

11781/04 ENV 433 STATIS 55 RECH 156 CODEC 948  
10151/05 ENV 292 STATIS 64 RECH 140 CODEC 509 OC 428  
+ ADD 1

The Council reached political agreement on the text set out in 10553/05 ENV 323 STATIS 71 RECH 149 CODEC 550 by unanimity.

The Commission welcomed the fact that political agreement would enable the file to move to second reading. However, it confirmed that it could not accept the Presidency's text, considering that it provided too much scope for Member States to restrict access to and the sharing of data.

Austria, the Czech Republic, Spain and Portugal made the joint statement set out in Annex II.

**5. Community strategy concerning mercury**

– **Council conclusions**

5999/05 ENV 45  
9470/05 ENV 249 SAN 89

The Council adopted conclusions as set out in the annex to 9470/05.

**6. Dismantling of ships**

– **Council conclusions**

10153/05 ENV 293 MAR 97

The Council adopted conclusions as set out in the annex to 10552/05 ENV 322 MAR 105;

**7. Proposal for a Regulation of the European Parliament and of the Council concerning the Financial Instrument for the Environment (LIFE+)**

– **Progress of proceedings**

13071/04 ENV 528 CADREFIN 60 FORETS 31 CODEC 1080  
6074/1/05 ENV 48 CADREFIN 17 FORETS 3 CODEC 65 REV 1  
9886/05 ENV 270 CADREFIN 122 FORETS 15 CODEC 483

The Council took note of the state of play on the LIFE+ file set out in document 9886/05.

The United Kingdom indicated that it wished to make as much progress on the file as possible and would seek to ensure coordination with the work of other Council formations.

Several other delegations intervened to restate their positions, in particular to stress the need for appropriate arrangements for the Natura 2000 network and environmental technologies;

**8. REACH**

**Proposal for a Regulation of the European Parliament and of the Council concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency and amending Directive 1999/45/EC and the Regulation on Persistent Organic Pollutants**

**Proposal for a Directive of the European Parliament and of the Council amending Council Directive 67/548/EEC in order to adapt it to the Regulation of the European Parliament and of the Council concerning the registration, evaluation, authorisation and restriction of chemicals**

– **Policy debate**

15409/03 COMPET 75 ENV 651 CHIMIE 3 CODEC 1692  
+ EXT 1  
+ ADD 1  
+ ADD 1 EXT 1  
+ ADD 2  
+ ADD 3  
+ ADD 4  
+ ADD 5  
+ ADD 5 EXT 1  
+ ADD 6  
10037/05 COMPET 130 ENV 284 CHIMIE 32 CODEC 496  
+ COR 1 (fr)

The Council took note of the Presidency note set out in document 10037/05 and held a policy debate on a draft Regulation and Directive concerning the registration, evaluation, authorisation and restriction of chemicals (REACH), and establishing a European Chemicals Agency, with a view to setting out general guidelines for future work.

The discussion concentrated on the authorisation regime, and in particular on the scope of authorisation, the possible preparation of a list of chemicals of concern subject to authorisation, mandatory taking into account of technically and economically viable alternatives (substances or technologies) and the conditions to which, where appropriate, authorisation would be subject (time-limits, review periods, monitoring).

At the close of the discussion, the Presidency summarised as follows:

"As regards the scope of authorisation, the discussion in the Council highlighted the importance of applying scientific and technical criteria when taking account of chemicals of concern with serious and irreversible effects equivalent to carcinogens, mutagens or substances toxic to reproduction, and persistent, bioaccumulative and toxic substances (PBT) or very persistent and very bioaccumulable substances (vPvB).

While reiterating the need for a manageable and practicable authorisation regime, the policy debate confirmed the largely positive attitude towards drawing up a list of chemicals that would require authorisation.

With regard to taking account of technically and economically viable alternative technologies or substances in the context of granting authorisation, the discussion revealed that the authorisation regime was an important part of REACH that could help replace chemicals of concern, and that the aim was to further encourage consideration of these alternative solutions before a decision was taken.

While recognising the merits of encouraging the development of alternative solutions, the discussion in the Council emphasised the importance of taking account of the specific constraints in production cycles when applying conditions to authorisation, yet without excluding authorisation being subject to strict conditions, including time-limits, review periods and monitoring conditions."



The Council called on its preparatory bodies to continue negotiations with a view to a political agreement, once the European Parliament's opinion was available, on all aspects of the Commission proposal, while taking account of the need to strike a balance between the international competitiveness of European industry and environmental and health protection.

**9. Genetically modified organisms - Repeal of national measures**

10111/05 ENV 288 AGRILEG 94 OC 427

+ COR 1

- (a) **Proposal for a Council Decision concerning the provisional prohibition of the use and sale in Austria of genetically modified maize (*Zea mays* L. line T25) pursuant to Directive 2001/18/EC**
  - **Adoption**  
8633/05 AGRILEG 53 ENV 188
- (b) **Proposal for a Council Decision concerning the provisional prohibition of the use and sale in France of genetically modified hybrid swede rape (*Brassica napus* L. ssp. *oleifera* Metzg. MS1Bn x RF1Bn) pursuant to Directive 2001/18/EC**
  - **Adoption**  
8634/05 AGRILEG 54 ENV 189
- (c) **Proposal for a Council Decision concerning the provisional prohibition of the use and sale in France of genetically modified spring swede rape (*Brassica napus* L. ssp. *oleifera*) derived from transformation event Topas 19/2, pursuant to Directive 2001/18/EC**
  - **Adoption**  
8638/05 AGRILEG 58 ENV 193
- (d) **Proposal for a Council Decision concerning the provisional restriction of the use and sale in Germany of genetically modified maize (*Zea mays* L. line Bt 176) pursuant to Directive 2001/18/EC**
  - **Adoption**  
8639/05 AGRILEG 59 ENV 194
- (e) **Proposal for a Council Decision concerning the provisional prohibition of the use and sale in Austria of genetically modified maize (*Zea mays* L. line Bt 176) pursuant to Directive 2001/18/EC**
  - **Adoption**  
8642/05 AGRILEG 61 ENV 196
- (f) **Proposal for a Council Decision concerning the provisional prohibition of the use and sale in Austria of genetically modified maize (*Zea mays* L. line MON 810) pursuant to Directive 2001/18/EC**
  - **Adoption**  
8641/05 AGRILEG 60 ENV 195
- (g) **Proposal for a Council Decision concerning the provisional prohibition of the use and sale in Greece of genetically modified spring swede rape (*Brassica napus* L. ssp. *oleifera*) derived from transformation event Topas 19/2, pursuant to Directive 2001/18/EC**
  - **Adoption**  
8636/05 AGRILEG 56 ENV 191

- (h) **Proposal for a Council Decision concerning the provisional prohibition of the use and sale in Luxembourg of genetically modified maize (*Zea mays* L. line Bt 176) pursuant to Directive 2001/18/EC**
- **Adoption**  
8637/05 AGRILEG 57 ENV 192

On the basis of a vote on each of the eight proposals the Council, acting by a qualified majority, opposed their adoption by the Commission.

The Council wished to make clear the reasons for its opposition (see statement in Annex III).

Sweden also tabled a statement (see Annex III).

10. **Genetically modified organisms - Placing on the market of maize of line MON 863**
- **Proposal for a Council Decision concerning the placing on the market, in accordance with Directive 2001/18/EC of the European Parliament and of the Council, of a maize product (*Zea mays* L. line MON 863) genetically modified for resistance to corn rootworm**
    - = **Adoption**  
8635/05 AGRILEG 55 ENV 190  
10112/05 ENV 289 AGRILEG 95 OC 431

The Council was unable to take a decision on this proposal by a qualified majority.

The German delegation, with the backing of the Belgian delegation, asked that a statement be entered in the minutes (see Annex IV).

## 11. Other business

- (a) **UNEO**
- Presidency briefing

The Council took note of the written report.

**(b) First Conference of the Parties to the Stockholm Convention on Persistent Organic Pollutants (Punta del Este, 2 to 6 May 2005)**

- Briefing by the United Kingdom delegation  
10004/05 ENV 281 ENT 72 ONU 68

The Council took note of the written report.

**(c) Second Conference of the Parties to the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Almaty, 25 to 27 May 2005)**

- Briefings by the Netherlands delegation and the Commission  
10211/05 ENV 298 AGRI 164 INF 126 ONU 75

The Council took note of the written report.

**(d) Second meeting of the Parties to the Cartagena Protocol on Biosafety (Montreal, 30 May to 3 June 2005)**

- Briefings by the Netherlands delegation and the Commission  
10375/05 ENV 313 WTO 107 ONU 77 AGRI 172

The Council took note of the written report.

**(e) Thirteenth meeting of the Commission on Sustainable Development (New York, 11 to 22 April 2005)**

- Presidency briefing  
10234/05 ENV 302 DEVGEN 124 ONU 76

The Council took note of the written report.

**(f) Preparations (programme, situation and tasks) for the UN Millennium Declaration Review Summit (14 to 16 September 2005)**

- **Request by the Hungarian delegation**  
10005/05 ENV 282 DEVGEN 115 RELEX 308 ONU 69 FIN 207
- **Presidency briefing**

The Council took note of Hungary's written comments and a Presidency report.

- (g) **Proposal for a Directive of the European Parliament and of the Council on access to justice in environmental matters**
- **Progress report**  
14154/03 ENV 586 JUSTCIV 223 INF 199 ONU 60 CODEC 1503  
9967/05 ENV 275 JUSTCIV 108 INF 117 ONU 67 CODEC 490

The Council took note of the progress report.

Belgium drew attention to the high degree of importance it attaches to this proposal.

- (h) **Question of the prohibition of DecaBDE in the Directive on the restriction of the use of certain hazardous substances in electrical and electronic equipment**
- **Request by the Swedish delegation**  
9932/05 ENT 70 ENV 273  
10192/1/05 ENV 295 ENT 76 REV 1

The Council took note of the common letter of Ministers in Belgium, Denmark, Finland, Portugal, Sweden and Norway expressing deep concern about the Commission proposal. The President announced that the Permanent Representatives Committee would deal with this matter as soon as possible.

- (i) **Ethanol in fuel**
- **Request by the Swedish delegation**  
10233/05 ENV 301 ENT 80 ENER 102

The Council took note of Sweden's written comments. The Commission reported that it was examining this issue in the context of its review of the fuel quality Directive (2003/17/EC) till the end of 2005.

- (j) **Briefing on the progress of the "Clean, Clever, and Competitive" dialogue**
- **Request by the Netherlands delegation**

The Council took note of a Dutch oral report on the progress of a dialogue with the private sector.

**(k) Environmental dimension of the Competitiveness and Innovation Framework Programme (2007-2013) (CIP)**

– **Request by the Spanish delegation**

8081/05 COMPET 67 RECH 79 ENER 55 ENV 164 TELECOM 27  
ECOFIN 124 CODEC 264  
10246/1/05 COMPET 137 RECH 142 ENER 103 ENV 304  
TELECOM 56 ECOFIN 213 REV 1

The Council took note of Spain's written comments.

**(l) EU-China dialogue on the environment**

– **Commission briefing**

10376/05 ENV 314 COASI 37

The Commissioner gave an oral summary of his recent meeting with the Chinese minister for the environment. They agreed that the EU and China should increase their collaboration at international meetings, particularly those on climate change, biodiversity and air and water pollution. The Commissioner encouraged Member States to share information with China in order to build upon the Chinese willingness to move closer to the EU position on environmental issues

**(m) Tightening of emission standards for diesel vehicles (EURO 5)**

– **Request by the Austrian delegation**

10214/05 ENV 299 ENT 78

The Council took note of Austria's written comments. Belgium, Germany and the Netherlands reacted favourably. Italy stressed the necessity of coherence with other fora in the Community context (e.g. CARS 21). The Commission referred to its forthcoming proposal on the Euro 5 standard and the thematic strategy on air quality.

**(n) Drought in Portugal**

– **Request by the Portuguese delegation**

10361/1/05 ENV 311 REV 1

The Council took note of Portugal's written and Spain's oral comments.

The Commission undertook to discuss the problem with the delegations concerned.

- (o) **Environment and Health Action Plan: Action 3 Biomonitoring**  
– **Request by the Belgian delegation**  
10250/05 ENV 305 SAN 113

The Council took note of Belgium's written suggestion. Germany, while supporting human biomonitoring, expressed opposition to the financing instrument proposed. The Commission thanked Belgium for being a motor in this process and other Member States for their co-operation.

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**Re: Item 3 on the agenda**

**Proposal for a Directive of the European Parliament and of the Council on the protection of groundwater against pollution**

**Statement by the Commission**

"The Commission will continue to pursue the full and correct implementation of the Nitrates Directive in the Member States, including where appropriate, recourse to the infringement procedures provided for under the Treaty.

By March 2007, and in accordance with Article 18 (3) of the Water Framework Directive, the Commission will publish its first progress report on the implementation of this Directive. In this report, the Commission will *inter alia* examine the issue of nitrate pollution and in particular the need to ensure:

- 1) maximum coherence in the implementation of the Water Framework Directive, the Nitrates Directive and the Drinking Water Directive;
  - 2) that the objectives set out in Article 4 of the Water Framework Directive (achievement of good status by 2015) can be respected."
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**Re: Item 4 on the agenda**

**Proposal for a Directive of the European Parliament and of the Council establishing an infrastructure for spatial information in the Community (INSPIRE)**

**Joint statement by Austria, the Czech Republic, Spain and Portugal**

"Austria, the Czech Republic, Spain and Portugal welcome the proposed Directive creating a legal framework for the establishment and operation of an Infrastructure for Spatial Information in Europe (INSPIRE).

We would have preferred to have a more ambitious Directive namely in what regards articles 13, 14 and 17. These articles, in our view, don't reflect the best legislative option to ensure either an adequate sharing of spatial data sets and services between public authorities or a satisfactory level of public participation.

However, we recognize that a good environment policy depends on high-quality information and informed public participation, and INSPIRE is a fundamental tool in that respect. Therefore, Austria, the Czech Republic, Spain and Portugal will not object to the adoption of the political agreement pending the forthcoming negotiations with the EU Parliament."

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**Re: Item 9 on the agenda**

**Genetically modified organisms - Repeal of national measures**

**Statement by the Council**

"The Council considers that there is still a degree of uncertainty in relation to the national safeguard measures on the market of genetically modified maize varieties T 25, MON 810 and Bt 176; rape seed varieties Topas 19/2 and MS1Bn.

In particular it is necessary to further assess maize line Bt 176 in the light of the scientific opinion of EFSA of 2 April 2004 <sup>1</sup> which recommends to restrict to field trial purposes and not to place on the market genetically modified organisms containing Antibiotic Resistant Marker Genes resistant to ampicillin, an antibiotic used in human and animal therapy.

Having regard to the subsisting uncertainty and to the precautionary principle the Council calls on the Commission to gather further evidence on the GMOs in question and further assess, whether the measures taken by Member States aimed at suspending as a temporary precautionary measure their placing on the market are justified and, whether the authorisation of such organisms still meets the safety requirements of Directive 2001/18/EC in particular in relation to antibiotic resistant markers."

**Statement by Sweden**

"Sweden understands the necessity for the Commission to act within a certain time frame when a Member State makes use of Article 23 of Directive 2001/18/EC. However, in order to facilitate a harmonisation of the interpretation of Article 23, it would have been desirable for the Commission to have awaited the renewal of consents of GMO's granted under Directive 90/220/EEC which, according to Article 17 of Directive 2001/18/EC, will take place in approximately one year. For this reason Sweden abstains from voting."

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<sup>1</sup> The EFSA Journal (2004) 48, 1-18.

**Re: Item 10 on the agenda**

**Genetically modified organisms - Placing on the market of maize of line MON 863**

**Statement by Germany**

"Germany voted for the authorisation of MON 863. Irrespective of its view that in the present state of knowledge the use of MON 863 covered by the Commission's proposal for a Decision is unlikely to have adverse effects on either the environment or human health, Germany would suggest, however, as a precaution, that the applicant be required, in the context of case-specific monitoring:

- (1) to repeat the 90-day rat-feeding study with juvenile rats which accompanied the application, paying particular attention to the effects on the kidney, the haematopoietic system, cells and organs of the immune system and also to histological examinations of the membranes of the gastro-intestinal tract;
- (2) to conduct a study of the potential sub-chronic toxicity of MON 863 maize for animals usually fed with the product, comparing animal populations fed with feed containing MON 863 maize with animal populations of the same species fed with comparable feed containing no genetically modified maize, and
- (3) to report to the competent authority within a year on the results of the studies referred to in (1) and (2)."

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