

### In This Issue:

- [Chemicals](#)
- [Pesticides/Biocides](#)
- [Life Sciences](#)
- [Food](#)
- [Environment General Issues](#)
- [Social Affairs/Worker Safety](#)
- [Institutional Issues](#)

## Chemicals

### ▶ Hazardous Substances in Electrical and Electronic Equipment

As of the December 23 deadline, the Council failed to act on the Commission proposal for a Council Decision imposing maximum concentration limits for certain hazardous substances in electrical and electronic equipment. The Commission will hence have to adopt the proposal amending the Annex to Directive 2002/95/EC (the RoHS Directive) itself.

(Ref.: COM (2004) 606)

### ▶ European Parliament Hearing on REACH (Registration, Evaluation and Authorization of Chemicals)

On January 19, the European Parliament hosted a Joint Hearing with the Commission and Council on the REACH proposal. REACH was proposed by the Commission in October 2003 and is currently being discussed by the EP and the Council in First Reading. Concurrently, about 40 regulatory impact assessment (RIA) studies, launched by the Commission, are being conducted to clarify the costs and benefits of REACH.

Following the numerous questions during the Joint Hearing regarding amendment to or withdrawal of the original Commission proposal, the Commission announced their intent to review and adapt the proposal following the First Reading of the European

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Parliament. Although REACH is currently scheduled to kick off in 2006, many experts are now predicting a more realistic expectation of 2007.

For more information, please refer to the February 2, 2005 MLA [EU Environmental Law Bulletin](#).

(Ref: <http://europa.eu.int/comm/enterprise/reach/index.htm>)

### ▶ **Persistent Organic Pollutants (POPs)**

During a meeting of the parties to the UNECE Protocol on POPs held from November 29 to December 3, the working group on POPs candidates decided to open a review of the substances PBDE & PFOS. The review is taking place this year with hopes of a decision on action and possible inclusion by the end of 2005.

### ▶ **EU Ratifies Stockholm POP Convention**

Now that EU legislation implements all of the provisions of the Stockholm Convention on Persistent Organic Pollutants (POPs), the EC officially became a party to the Convention in November. The Convention bans the use and production of 12 POPs. As a party to the Convention, the EC is now able to encourage worldwide participation and inclusion of additional substances.

(Ref: <http://www.pops.int>)

### ▶ **Chemical Review Committee**

On February 11-18, the Chemical Review Committee (CRC) of the Rotterdam Convention (Prior Informed Consent Convention (PIC)) ended its first formal meeting in an agreement to introduce international controls on the trade of chrysotile asbestos and to establish a task force to examine 13 chemicals for future international control. The chemicals to be reviewed are chlordecone, endosulfan, endrin, methamidophos, methyl bromide, methyl parathion, phosphamidon, 2-naphthylamine, 4-aminobiphenyl, benzidine, bis(chloromethyl)ether, carbon tetrachloride and tributyl tin compounds

Upon acceptance by the Committee, each of the chemicals, including chrysotile asbestos, would be included in Annex III of the Convention which requires exporters to obtain prior informed consent (PIC) from the importing countries' governments before shipping.

[↗ Back to top](#)

## **Pesticides/Biocides**

### ▶ **Uniform Residue Standards Regulation**

On December 15, the European Parliament approved a regulation amending Directive 91/414, repealing four other Directives and authorizing the European Food Safety Authority (EFSA) to set maximum residue levels for pesticides to be applied across the EU. In addition, the new regulation requires Member States to publish monitoring details of residues with an option to "name and shame" producers, retailers and traders in violation of the limits.

Following informal negotiation with the Council, the European Parliament introduced

40 amendments seeking to address synergistic and cumulative effects to which the Commission and Council have agreed. As such, under the co-decision procedure, upon official approval of the Council and 20 days after finalization and publication of the text, the regulation will enter into force.

(Ref: COM (2004) 117)

[↗ Back to top](#)

## Life Sciences

### ▶ GM Authorizations

Late last year, the Commission approved GM Maize NK 603 and its derivative products containing clear labelling for importation into the EU. Two other GMOs, Maize MON 863 and Monsanto GT73, failed to obtain approval in the Regulatory Committee and the Council due to a failure of the Member States and the Environment Ministers to attain a qualified majority. They will now return to the Commission where they will likely be approved in due course.

(Ref: COM (2004)572)

### ▶ GMO/WTO Trade Dispute

EU and US officials met on February 18 to discuss the current dispute brought in the WTO by the US, Canada and Argentina against the EU "for their failure to allow GMOs in food, feed and cultivation". Arguing that the EU's position constitutes a barrier to trade and a barrier to WTO legislation, the US and others are seeking possible trade sanctions and retaliatory tariffs. The parties met in Geneva on February 21-22 to discuss progress. A final ruling is expected in early 2006.

### ▶ GMO Guidance Document

EFSA has published a guidance document to assist companies in the preparation of applications for marketing GMOs under Regulation 1829/2003. The guidance document is to be reviewed regularly.

(Ref: [http://www.efsa.eu.int/science/gmo/gmo\\_guidance/660/gmo\\_guidance\\_riskassess\\_en1.pdf](http://www.efsa.eu.int/science/gmo/gmo_guidance/660/gmo_guidance_riskassess_en1.pdf))

### ▶ Avian Influenza in Asia

The Standing Committee of the Food Chain and Animal Health has agreed to a Commission proposal lifting restrictions on Japan and South Korea and extending the current suspension of poultry imports from the remaining Asian countries until November due to the risk of the avian influenza in birds. The Commission proposal is now pending formal adoption.

[↗ Back to top](#)

## Food

### ▶ EFSA Opinions: Iodine, Biomin BBSH 797, Camphechlor and Additives

- Opinion of the Panel on Additives and Products or Substances Used in Animal Feed (FEEDAP) on the use of iodine in feedingstuffs: The Opinion was adopted on a request by the Commission to evaluate physiological requirements for iodine usage referred to in Directive 70/524. Iodine requirements for animal species vary and iodine supplementation is often necessary due to low iodine content in plant feedingstuffs. The limited data available indicates no association between current iodine supplementation and risk to humans. (Ref: EFSA-Q-2003-058)
- Opinion of the FEEDAP Panel on the safety of the product "Biomin BBSH 797" for pigs and chickens for fattening and for users, consumers and the environment: The Opinion was adopted on a request by the Commission. Although no concerns were noted in the tolerance studies, the safety for the targeted species was not demonstrated due to the design of the study. In addition, the results regarding treated feed material, consumer exposure and risks of handling were not conclusively established. (Ref: EFSA-Q-2003-052)
- Opinion of the Scientific Panel on Contaminants in the Food Chain (CONTAM) related to camphechlor as undesirable substance in animal feed: The Opinion was adopted on a request from the Commission. The study indicates neurotoxicity and toxic effects in the liver, thyroid and immune system in fish, birds and mammals resulting from camphechlor. There are substantial data gaps in information regarding feedingstuffs and food of animal (excluding fish) and plant origin. (Ref: EFSA-Q-2003-068)
- Opinion of the Scientific Panel on Food Additives, Flavourings, Processing Aids and Materials in Contact with Food (AFC) regarding flavouring substances: The AFC Panel concluded that 77 of the flavouring substances which were evaluated did not present any indication of genotoxic or carcinogenic potential. However they also concluded that more information was needed for 33 of the flavouring substances in order to complete the assessment. The AFC Panel is due to conduct assessments of 1000 flavouring substances before July 2005.

### ▶ **Community Reference Laboratory (CRL)**

On November 9, the Commission inaugurated the Community Reference Laboratory (CRL), a laboratory for authorization of feed additives. The CRL will be responsible for the evaluation of the analytical methods used in detecting additives in animal feed and maintaining the reference samples.

### ▶ **Streamlined Package Labelling**

The Commission is currently working on a proposal which seeks to simplify rules for labelling of packaging on a variety of goods ranging from food to cleaning products. The legislation is intended to cover quantity, weight, filling of packaging and other related issues and is anticipated to lead to industry savings.

If successful, the new Directive will replace 2 current Directives and about 25 current national rules and will ensure compliance with international market standards. Public consultation on the proposal will close in mid-March with results available to the public in June or July. It is hoped that the final legislation will be in place by late 2006.

### ▶ **Challenge to Food Supplements Directive**

The 2002 food supplements Directive requiring additional evidence of safety for many dietary supplements is currently being challenged in the UK by several British

trade associations. The UK High Court referred the case to the European Court of Justice for a preliminary ruling.

(Ref: Directive 2002/46/EC & C-154/04)

### ▶ **Consultation on Nutrition Labelling**

The Commission is preparing for a major consultation on mandatory nutritional labelling following last year's impact assessment. Anticipating completion this year, the proposal will most likely address how nutrition labelling rules can be improved for increased consumer use and understanding.

### ▶ **Fortification Discussion**

In early February, the European Parliament Committee on the Environment, Public Health and Food Safety continued discussion on the inclusion of nutrient profiles in the proposal on the fortification of foods with added vitamins and minerals. Following the Committee's amendments and vote, the proposal will proceed to the European Parliament Plenary for adoption of their First Reading Position.

(Ref: COM (2003) 671)

### ▶ **Nutrition and Health Claims**

Under the co-decision procedure, the current proposal for a regulation which seeks to ban certain claims on nutrition and health and requires scientific assessment for the use of claims according to the food's nutritional profile is anticipated to reach a Common Position by mid-2005.

According to Agra-Net, there was continued debate at the European Parliament Committee on the Environment, Public Health and Food Safety meeting in February with support for compromise on the regulation. Despite the voiced concerns regarding potential implications to small and medium-sized businesses, advertising directed at children, EFSA capacity constraints and over-regulation, the MEPS appeared to make progress towards compromise.

(Ref: COM (2003) 424)

[↗ Back to top](#)

## **Environment General Issues**

### ▶ **Environment Council**

On December 20, the Ministers for Environment gathered for the Environment Council meeting. Among other issues, the Ministers discussed:

- REACH: Debate;
- Batteries and Accumulators: Political Agreement on a draft Directive; and
- Aarhus Convention: Political Agreement on a draft Regulation and draft Decision (see related article in this section).

## ▶ **Competitiveness Council**

On November 25-26, the Ministers for Industry gathered for the Competitiveness Council. Among other issues, the Ministers discussed:

- REACH: Debate;
- Simplifying EU Law: Council Conclusions;
- Services Directive: Agreement for rules facilitating cross-border company mergers and on enhanced measures for monitoring trade precursors;
- Textiles and Clothing: Council Conclusions; and
- International Thermonuclear Experimental Reactor: Agreement for modification of Commission's negotiating Directives.

## ▶ **EU Case Law on National Collection System for Non-Reusable Packaging**

On December 14, the European Court of Justice (ECJ) adopted two judgments requiring Germany to amend its national packaging collection system which it determined is a barrier to intra-community trade. Under the judgments, Member States must ensure a sufficient number of return points when replacing a global collection system with a deposit and return system thus allowing the purchaser to recover the deposit without returning to the initial place of purchase. In addition, they must have a reasonable transitional period and a guarantee of continuity between the systems.

For more information, please refer to the January 2005 MLA [International Environmental Monitor](#).

(Ref: C-463/01 & C-309/02)

## ▶ **Aarhus Convention**

In December, the Environmental Council gave its approval for ratification of the Aarhus Convention regarding access to information, public participation in decision-making and access to justice in environmental matters and reached Political Agreement on the Regulation for ratification. On February 17, the EU Council of Ministers officially approved the Convention. Notification of the ratification decision was given to the UN on February 25 and the EU will officially become a party to the Convention in late May.

In the meantime, the EU is continuing to bring its legislation in line through various Directives. The Directive on public participation in decision-making will take effect in June (Ref: Directive 2003/35/EC), the proposal for a Directive regarding access to justice in environmental matters is under discussion in the Council (Ref: COM (2003) 624) and the Directive revising rules on granting public access to environmental information was approved on February 14 (Ref: Directive 2003/4/EC).

## ▶ **European Emissions Trading Scheme**

On January 1, the EU emissions trading scheme came into force under Directive 2003/87/EC, furthering the EU's commitment to reduce greenhouse gases under the Kyoto Protocol and establishing a foundation for an international trading system. The scheme covers CO<sub>2</sub> emissions allowances to be traded within the energy and several heavy industry fields of all Member States (pending approval of Poland, Italy, Greece

and the Czech Republic's national plans). On December 21, the Commission also adopted a Regulation regarding an electronic registry that tracks ownership and trading of the emission allowances which was launched on February 14.

The European stock exchange operators are not planning to open the market for trading until late March but spot trades are already occurring and exchanges are being prepared and executed as forward contracts. Under the new scheme, there will be three ways to trade: forward contracts, futures and on the spot.

For additional background information, please refer to the January 2005 MLA [International Environmental Monitor](#).

### ▶ **Batteries and Accumulators**

On December 20, the Environment Council adopted by qualified majority (Belgium, Greece, Ireland and Italy did not vote in favor) a Political Agreement on the Commission's Proposal for a revised Directive on batteries and accumulators and spent batteries and accumulators. The future legislation will prohibit the marketing of certain batteries and accumulators and impose separate collection of all waste batteries and accumulators. The current agreement, after its finalization in all Community languages, will take the form of a Common Position and will be submitted to the European Parliament for Second Reading.

For more information, please refer to the January 2005 MLA [International Environmental Monitor](#).

(Ref.: COM (2003) 723 & Directive 91/157)

### ▶ **EU Critical Use Exemptions for Methyl Bromide**

On December 10, the Regulatory Committee of Member State representatives approved the proposed Commission Decision setting critical use exemptions and corresponding quantities for the use of methyl bromide in the EU during 2005. Methyl bromide is restricted under the United Nations Environment Programme (UNEP) Montreal Protocol on ozone depleting substances which is transposed into EU law by Regulation 2037/2000/EC.

The Decision is currently being translated into all Community languages and will be published in the coming weeks/months. The quantities granted by the Commission for the critical use exemptions are substantially lower than those requested by the Member States and/or agreed to by the Parties to the Montreal Protocol.

### ▶ **Kyoto Protocol**

On February 16, the Kyoto Protocol came into effect as the UN's first legally binding environmental legislation. The Protocol is designed to cut global carbon dioxide emissions by 80% by 2050. While the EU has already enacted measures consistent with the Protocol (for example, see "European Emissions Trading Scheme", this section) along with numerous other countries, there are significant doubts as to the effectiveness of the treaty.

The most notable concern among Kyoto's supporters is the absence of signatures from countries such as the US and China which may hinder the treaty's effectiveness. In a recent Commission communication regarding the Protocol, the EU

listed a set of post-2012 proposals which includes increased global participation, promotion of innovation of new technologies, continued use of market-based instruments and the possible inclusion of the aviation, maritime and forestry sectors. The new strategy will be submitted to Member States for their approval at the March 22-23 leaders' summit.

### ▶ **Clean Air for Europe**

On November 16, the Council adopted a Directive on heavy pollutant concentrations with the intent of cutting concentrations of arsenic, cadmium, mercury, nickel and polycyclic aromatic hydrocarbons in the atmosphere. This Directive reinforces the Framework Directive (96/62/EC) on ambient air quality and ensures Member State compliance with respect to contamination, technology, monitoring and Community-wide communication of pollution and air quality.

In addition, on January 4, the Commission adopted a progress report regarding Member State implementation of the Directive (1999/30/EEC) on ambient air quality concerning concentrations of sulphur dioxide, nitrogen dioxide and oxides of nitrogen, particulate matter and lead. The report is being used in the drafting of the thematic strategy on air pollution and in conjunction with the Clean Air for Europe (CAFE) program to be implemented in the first half of the year. According to the Commission's report, at this point only three Member States have complied with their obligation to present air quality improvement plans and, in 2004, infringement proceedings were opened against ten Member States for not respecting the Directive.

### ▶ **Mercury Action Plan**

On January 28, the Commission announced its mercury strategy in response to an increasing understanding of the threats posed by the substance to humans, the ecosystem and wildlife. The mercury strategy outlines six objectives for the EU including phasing out exportation by 2011, reducing the supply and demand, requiring safe storage of surpluses, reducing its emissions, protecting against exposure, promoting international action and continuing research and information programs.

### ▶ **Waste**

On November 17, the European Parliament adopted its First Reading Opinion regarding a Directive adapting a 2004 Directive which amends the 1994 Packaging and Waste Directive. In its Opinion, the European Parliament ignores recommendations from the Commission by proposing staggering deadlines for the new Member States' implementation of the 1994 Directive with deadlines extending until 2015.

### ▶ **Infringement Proceedings**

On November 29, the European Parliament's Environmental Committee hosted a debate with each of the Member States' environmental representatives regarding implementation of EU environmental legislation and the related infringement proceedings. During the debate, the Head of Legal Affairs for the Commission's Environment Directorate-General (DG) noted that there are 1,062 outstanding environmental cases totalling 32% of the total number of infringement proceedings. National delegates cited many reasons for the infractions including distribution of

authority, complexity of cases and lack of information and opportunities for comparison.

Examples of such problems are evidenced in the large amount of Member State infractions in the last few months. For instance, Austria and Germany were recently brought to the European Court of Justice (ECJ) for failure to comply with EU law regarding recycling of cars. The Commission is continuing legal action against Greece, Italy, Belgium and Finland for failure to fully transpose the Emissions Trading Directive by the 2003 deadline. And France, UK, Netherlands, Ireland and Spain have all recently been brought to the ECJ for various waste-related infringements.

[↗ Back to top](#)

## **Social Affairs/Worker Safety**

### **▶ Employment, Social Policy, Health and Consumer Affairs Council**

On December 6-7, the Employment, Social Policy, Health and Consumer Affairs Council was dedicated, among other things, to:

- Optical Radiation Exposure: Political Agreement;
- Lisbon Strategy: identification of six specific areas for priority action; and
- Accession Conferences: Adopted Common Positions regarding Bulgaria and Romania (see related article, Institutional Issues section).

### **▶ New Guidelines on Dangerous Products**

On December 13, the Commission adopted new guidelines ensuring coherent and efficient notification to consumers of dangerous non-food products. The new guidelines were created as practical arrangements to complete, clarify, reinforce and extend the scope of the current General Product Safety Directive (2001/95/EC). In addition, the guidelines establish a framework for collaboration between the Member States and the authorities in order to improve the current methods of risk assessment, product testing and market surveillance.

In addition, on March 10-11, the Commission is hosting the European Market Surveillance Programming Conference to discuss the development of best practices focused on four main sectors: the General Product Safety Directive, Toys, Cosmetics and the Low Voltage Directive.

Ref: [http://europa.eu.int/comm/consumers/cons\\_safe/prod\\_safe/gpsd/notification\\_dang\\_en.pdf](http://europa.eu.int/comm/consumers/cons_safe/prod_safe/gpsd/notification_dang_en.pdf)

[↗ Back to top](#)

## **Institutional Issues**

### **▶ Lisbon Strategy**

In 2000, the Council adopted the Lisbon Strategy which set the goal of making the EU the most dynamic and competitive knowledge-based economy in the world by 2010. In 2004, the Council and the Commission undertook a report to review the mid-term progress, the Kok Report. The Kok Report was presented in November and

was utilized by the Commission in order to complete the mid-term review and revised Lisbon Strategy for growth and jobs, launched on February 9.

According to the Commission, for various reasons, the Lisbon Strategy to date has had limited success. As such, it has been revised and simplified to focus primarily on a partnership between the Commission and the Member States to raise productivity and employ more people. In addition, the simplified Strategy calls for one national growth program and one EU growth plan.

### ▶ Constitution State of Play

Four Member States have decided in favour of ratifying the new European Constitution (Spain, Hungary, Lithuania and Slovenia) and many others are nearing the time for decision. Although there seems to be general support throughout the Community, many Member States are still facing varying degrees of support and institutional delays. The UK is scheduled to provide the final ratification, with a referendum expected in early 2006.

### ▶ European Union Expansion

On February 22, the Commission took the first step towards obtaining the signature of the Treaty of Accession for the Republics of Bulgaria and Romania by adopting a favourable Opinion on the accession. The next steps will occur on April 13 with a decision from the European Parliament and on April 25 with a Council decision and signature of the Treaty. Following the ratification of all current and future Member States, the Treaty will enter into force in January 2007.

Assuming Croatia's full cooperation with the current International Criminal Tribunal proceedings, negotiations for its accession will commence in March. Turkey is scheduled to begin accession negotiations in October.

[↗ Back to top](#)

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