



15 June 2011

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### **CONFERENCE “IMPLEMENTATION OF EU ENVIRONMENT LEGISLATION – HOW WE CAN DO BETTER” 15 JUNE 2011**

#### **OPENING SPEECH BY GIUSEPPE MONTESANO CHAIR OF BUSINESSEUROPE’S ENVIRONMENT WORKING GROUP**

Ladies and Gentlemen,

- Thank you very much for having invited me today to address this conference. It is a great pleasure for me to be here.
- At the beginning of his mandate, BUSINESSEUROPE sent a letter to Commissioner for Environment J. Potocnik, in which we called for concrete results in several strategic fields. One of them was: *“A clear shift in European environment policy away from law-making and towards implementation and enforcement of the regulatory acquis”*.
- As chair of BUSINESSEUROPE’s Environment Working Group, I am very pleased to see an initiative taken by DG Environment and strongly believe that this aspect should attract much more attention than in the past. Shifting from law-making to implementation and enforcement should not be just a slogan.

#### **Why is proper implementation of the environmental *acquis* important?**

##### To exploit the full potential of the existing EU policy framework

- The EU produces a lot of legislation. In the environmental and safety field, the number of laws adopted in the EU has increased from 307 (1990) to 1,953 (2009).
- Nobody, I think, would contest the complexity linked to implementation of such a tightly woven legislative fabric. While this is true for companies of all sizes, it is none



the less so for public authorities tasked with management and perhaps even more the case for national enforcement authorities, often confronted with other priorities than environmental issues.

- Optimal deployment of this regulatory framework takes time, not only for transposition of the legislation but also for implementation on the ground. It is therefore important to ensure that it is correctly and fully applied before any attempt is made to revise it and possibly think about modifying it. For instance, we have expressed reservations about the wisdom of a revision of the IPPC directive in 2008 when the period for full transposition only ended in 2007. This question needs to be clearly examined in 2012, as the REACH regulation and the eco-design directive fall due for evaluation.
- On this point, it would be interesting to reflect on the review clauses in European directives and regulations which are often triggered before there has been enough time to stand back and measure their degree of implementation and impact correctly.

#### To avoid undue distortion of competition

- Our companies develop their activities on increasingly competitive markets. This is certainly the case at international level with the emergence of major new players in international trade. It is also the case within the European market where around 2/3 of all exports in the EU are intra-EU trade.
- As in other areas of law, the unjustified disparity in the implementation and enforcement of EU environmental legislation – both between and within Member States – leads to distortions of competition. While national considerations must be duly taken into consideration when EU legislation is drafted, proper implementation across Europe must then be guaranteed to ensure a level playing field.

#### **Examples of key drivers for proper implementation and enforcement**

##### An environmental compliance culture



- Compliance with environmental rules is not only a legal obligation, but is also an attitude and a culture. Being compliant with rules and maintaining a strong reputation are therefore fundamental matters for every enterprise, which see benefits in terms of:
  - Reducing the risk of reputational damage connected with an infringement
  - Being seen as a progressive and ethical business
  - Improving internal procedures and making them safer
  - Lowering legal costs

### Cooperative capacity-building initiatives

- Application of the rules on the ground is key. Bearing in mind the complexity and technical nature of environmental legislation, pooled efforts involving the various stakeholders are necessary. Such partnerships must result in a mutual upgrading of knowledge and skills thanks to more exchanges of information and good practices.
- Shifting from law-making to implementation and enforcement should also mean moving from a tradition of “policy-making stakeholder groups” to a new culture of “capacity-building networks”, which will support more uniform transposition, implementation and enforcement of the EU’s environmental *acquis*.
- The EU should therefore pursue a resolute strategy to reinforce national, regional and European training and capacity-building programmes involving all interested parties, including business organisations.
- Initiatives in the framework of benchmarking and sources of finance for projects to improve implementation and enforcement of environmental laws are other questions which deserve to be debated.

### **A few words of caution**

- I would like to close by talking about the Aarhus Convention which establishes an international framework for some of the issues that will be addressed today i.e. access to information, public participation in the decision-making process and access to justice.



- There are two proposals to revise the Convention which greatly worry BUSINESSEUROPE and which, in BUSINESSEUROPE's view, show some limits to be carefully considered and corrected:
  - Ensuring access by the public to environmental information held by the private sector
  - Establishing financial assistance mechanisms to support the access of environmental NGOs to justice and to protect them against the assessment of court costs
- In the first case, this would be a real incursion into the private sphere which goes against the grain of European legislation on data confidentiality and protection. It would also open the door to unfair commercial practices.
- In the second case, it would introduce a large bias into the system for access to the European Court of Justice. Although BUSINESSEUROPE supports the principles of transparency and public involvement in decision-making processes, we do not think that the EU can accept proposals of this nature which are contrary to the Treaties.
- There we are. I hope that my introduction has given you a first overview of our approach to the subject and avenues to be explored. I would like to think that we are only at the start of a thinking process which should lead to a real tipping point for a new approach to European environment policy.
- I thank you for your attention and look forward to our discussions.

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