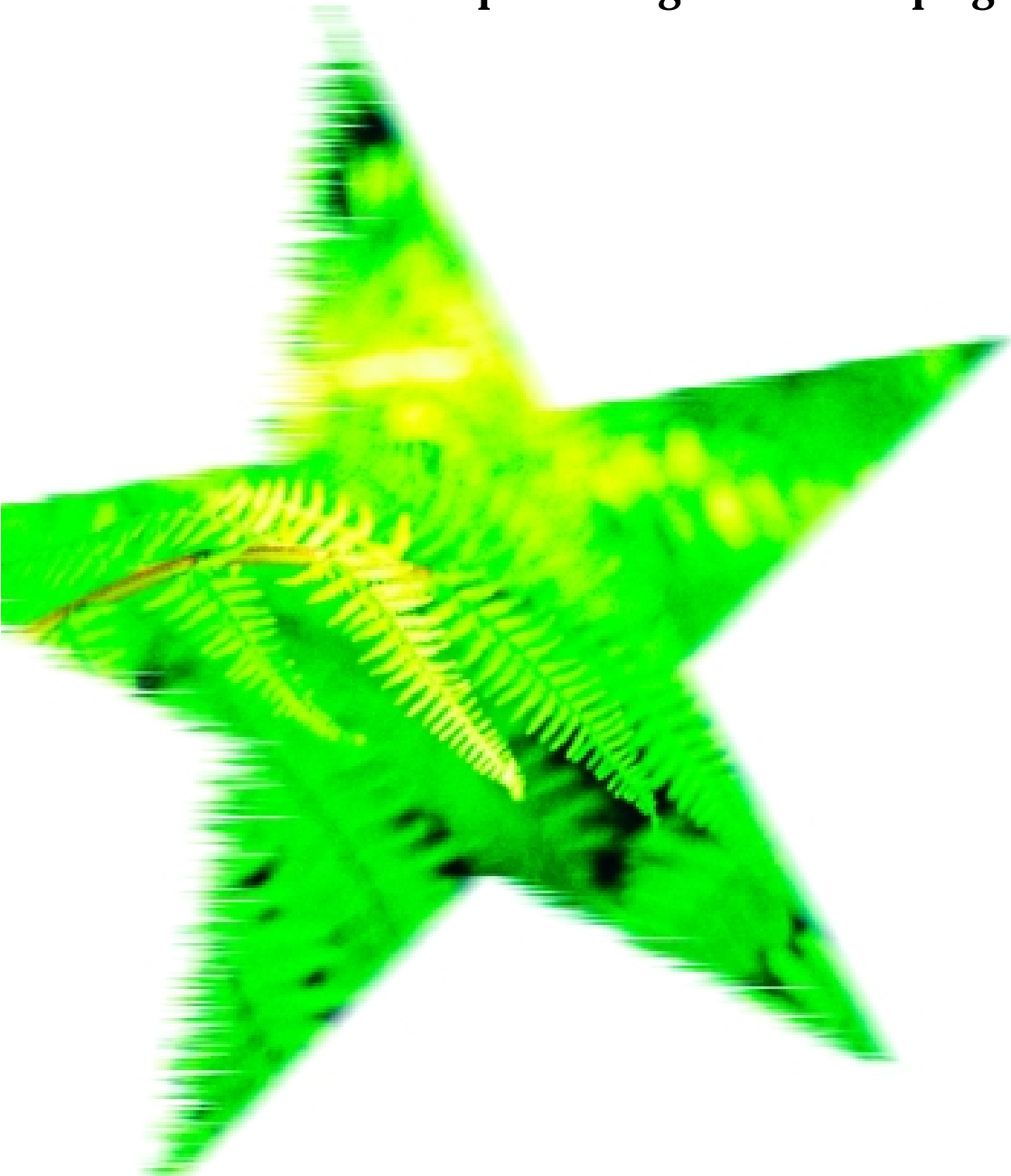




The EU's impact on forests

A practical guide to campaigning





FERN UK; 1C Fosseway Business Centre, Moreton in Marsh, Gloucestershire
GL56 9NQ, UK

FERN Brussels; Avenue des Celtes 20, 1040 Brussels, Belgium

email: info@fern.org

internet: www.fern.org

FERN promotes the conservation and sustainable use of forests, and respect for the rights of forest peoples in the policies and practices of the European Union



TRN, Taiga Rescue Network; Box 116, Ajtte, S-962 23 Jokkmokk, Sweden

email: info@taigarescue.org

internet: www.taigarescue.org

Taiga Rescue Network is an international network of environmental organisations and indigenous peoples working for the protection and sustainable use of the world's boreal forests

Authors: Emilie Cornu-Thenard and Saskia Ozinga

Editors: Shiobhan Vitelli and Catherine Cotton

Design: Daan van Beek, Utrecht, Netherlands

Photos: Daan van Beek, BMF, Greenpeace, Eric Wakker

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Foreword

The world has now lost some 50 per cent of its forests, and every year more forests are destroyed. Between 1990 and 2000 alone, an average of 125 million hectares of forest vanished globally.¹ When forests disappear not only do we put at risk countless local livelihoods that depend on intact forests, but we also lose one of the world's most important reservoirs of biological diversity and jeopardise the key role that forests play in maintaining natural ecosystems. There are many causes of forest loss, but at the heart of all of them lies the fact that forests are a contested resource, with a variety of different values and functions for different people.

In all these areas the European Union (EU) plays a major role. European forest campaigners can no longer ignore the role the EU plays: the trade and investment agreements that impact on forests; the decisions about aid spending that either support or destroy forests; the wider political debate on corporate social responsibility and the upholding of human rights where forests and forest peoples are concerned – both in and outside Europe. Luckily the need to campaign at EU level is increasingly not only acknowledged but also recognised as an opportunity for change within the NGO movement.

FERN and the Taiga Rescue Network (TRN) have developed this guide at the request of community groups and NGOs who wanted more guidance about how to approach EU institutions and campaign effectively at that level. In developing this guide, we have tried to be as factual and as practical as possible without losing sight of the complexities of EU institutions. As the 'How to Use' chapter will explain, the guide is not meant to be read from A to Z, but to allow you to read only those bits that are of relevance to your work. You do not need to have an office in Brussels to build an effective campaign at EU level, but bear in mind that the decision-makers, commission officials and parliamentarians spend a lot of time there and so you should plan on going there to meet them whenever a face-to-face meeting is necessary.

¹ UN FAO Global Forest Resources Assessment 2000, FAO Forestry Paper No. 140 (2000), p. 9.

No guide can ever be complete, and although we have done our utmost to be as factually correct as possible, there may be some minor mistakes. Any comments for improvements you may have are greatly appreciated. Most important to us is that this guide is useful to you and your campaign: so please start using it!

May 2004

*Emilie Cornu-Thenard
Saskia Ozinga*

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Introduction

The EU and its Member States have a major influence on how forests are managed worldwide. Firstly by being a major consumer and importer of timber and timber products, a large proportion of which is suspected to be illegally sourced;² secondly by being one of the main actors within the World Trade Organization (WTO), where rules on the trade in forest and agricultural products are being drafted; and thirdly because one-third of all bilateral forest projects worldwide are funded by the EU and its Member States.

Each of these influences can be harnessed to ensure that the EU and its Member States act responsibly with regard to one of the main ecological and social challenges of our times – the preservation of forests and the recognition of forest peoples' rights. This policy should start at home by ensuring the responsible management of forests within the EU.

But the influence of the EU on forests goes further than its members' territories. Considered as a whole, the EU is the largest trade block in the world – the EU provides 51 per cent of the world's foreign direct-investment outflows, some of which finance forest destruction.³ It also constitutes the largest bloc of timber consumers – particularly of pulp and paper products – with 450 million potential consumers.⁴ And, last but not least, the European Community (EC) is the second largest multilateral donor in the world, in many cases ignoring the impact of its aid programme on forests.⁵

A coherent policy on forest is not just a political challenge; it is also an administrative one. The process of EU decision-making on issues related to forests and associated social issues is complex. The decision-making that affects forests is fragmented across administrative bodies according to subject matter, geographical area, and the amount and type of funding involved.

² Friends of the Earth EWNI (2002) league table shows that an estimated 50 per cent of imports of tropical timber into the EU is illegally sourced.

³ Some examples in Jan Willem van Gelder (Profundo), *The Financing of African Logging Companies* (Netherlands, May 2002) and FERN's briefing note *Export Credit Agencies and Illegal Logging* (2001).

⁴ In 1998 the EU's consumption of paper products amounted to 196 kg/person/year or a total of 73.3 million tons, compared to 334 kg/person/year in the US or 3.8 kg/person/year in India. See: Janet N. Abramovitz and Ashley T. Mattoon, *Paper Cuts: Recovering the Paper Landscape*, Worldwatch Paper No. 149 (December 1999).

⁵ FERN (2002). *Forests at the Edge*. Available at www.fern.org.

Furthermore, any capacity to deal with the matter is weak and administrators are insufficient in number, overburdened and often lacking in environmental awareness or expertise.

However, as this guide will illustrate, campaigning at the EU level can create new openings that are often not available at the national level. The EU Treaty has usable text on the environment and human rights, and EU secondary legislation sets requirements for environmental impact assessments in the EU that are not sufficiently used by NGOs. The newly ratified Aarhus Convention also provides new openings for participation in decision-making on environmental matters across the EU. And lastly, the EU's public policy commitments on poverty alleviation and environmental integration as well as its ratification of the Convention on Biological Diversity can be used to bolster the environmental and social integrity of the EU's activities outside Europe.

Although the transfer of competence from the individual states to the EU is increasing in a number of areas, there are matters that remain the prerogative of the Member States alone. Therefore, if you are considering developing a campaign at EU level, the first question to ask is whether your objective falls within the competence of the EU. If not, initiating an EU-level campaign will be fruitless. Other questions then need to follow to ensure that the campaign is on target, and you will find some of those questions in the box below. The next section – How to Use This Guide – gives guidance on finding the answers you need for your campaign.

To build a campaign at EU level you will need to answer the following questions:

- 1 What are the campaign's objectives? Is this an issue to be dealt with at EU level?
- 2 What is the competence of the EU? What are the relevant policies and/or treaty articles?
- 3 What is the decision-making procedure that applies to your issue?
- 4 Which Directorate-General (DG) is 'chef de file' (i.e. in charge of the issue within the Commission)? Which DGs are influential and, specifically, which units and people within them?
- 5 Which European Parliament committee is involved? Which Members of the European Parliament (MEPs) are sympathetic?
- 6 How can you convince the European Parliament to amend, reject or adopt a proposal?
- 7 What is the role of the European Council in the decision-making procedure?
- 8 Which Member State holds the European Presidency? What are its agenda and sensitivities?
- 9 How can you convince the European Council to adopt (or reject/amend) the proposal?
- 10 How can you put your issue on the EU agenda?



How to use this guide

The guide is divided into three parts: **Part one** presents general basic information on the EU and its position on forest issues; **Part two** contains concrete information and tips on how to effectively campaign at EU level; and **Part three** focuses on practicalities, such as how to get hold of relevant information and how to hold the EU accountable. We attempted to write these chapters in such a way as to allow readers to read only those bits they feel they need. Extensive cross-references are made between the different chapters to allow readers to easily find all the necessary information.

FERN and TRN developed this guide in response to numerous requests on the parts of community groups and NGOs who were faced with either a problematic project that the EC was financing or with a law or policy that they wanted to get adopted or changed. In the light of this, we have structured this guide by using the examples of four different EU activities and by thinking of the possible actions groups might want to take and the questions that they would have to ask when building a campaign that involves EU institutions.

The four examples we chose are:

1. Raising concerns about a development project affecting forests in a developing country
2. Raising concerns about a project within the EU
3. Getting a policy adopted at the EU level
4. Getting EU legislation in place.

The actions to take in these four cases are briefly described below and function as pointers to Part Two and Part Three of the guide, by indicating in the margins where in the guide you can find more information on how to deal with these issues or institutions.

See page 20 on the difference between EC and EU

See pages 36 to 43 on EC aid structures and processes

Example 1: Raising concerns about a project in a developing country

This is a matter of influencing the European Community's (EC) role as an aid donor, which is guided by the **EC Development Policy** adopted in 2000. For all the countries with which it is engaged in development work, the Commission has developed **Country Strategy Papers (CSPs)** detailing the priorities for aid spending in a particular country or region. These national and regional aid programmes are usually funded through regional **budget lines** (under the appropriate Regulation) or, in the case of Africa, the Caribbean and the Pacific (known as **ACP Countries**) through the **European Development Fund (EDF)** within the framework of the Cotonou Agreement. In addition to these national and regional aid programmes, various projects are financed through thematic budget lines, such as the Forest Budget Line, the Environment Budget Line or the NGO Budget Line.

As part of overhauling the management of EC aid, and in an effort to improve the quality and speed of aid delivery for all programmes, more responsibility is being transferred to the Commission's representation in beneficiary countries, called '**Delegations**'.

Thus, in raising concerns about a project or aid program, your first ports of call should be:

- the **EC Delegation**,⁶ which is in charge of the planning and implementation of the project, and
- the **European Commission Desk Officer**⁷ in Brussels, responsible, among other things, for evaluating whether the project in question meets the objectives planned.

⁶ See http://europa.eu.int/idea/bin/dispen.pl?lang=en&entity_id=3337 for the list and contact details of the EU delegations in each country.

⁷ See http://europa.eu.int/comm/dgs/development/organisation/deskofficers_en.htm for a list and contact details of desk officers for ACP Countries

Example 2: Raising concerns about a project in the EU or an Accession Country

Raising concerns about a project within the EU or an Accession Country is done in a similar fashion as for projects outside the EU, except that you can refer to specific EU and Member State legislation, which must be respected when a project is prepared. Accession Countries are meant to transpose all EU legislation into their own legal systems, and the Commission is quite keen to make sure that this is done correctly and then applied.

In general, the first thing to know is that, whether a project is public or private, if it has a strong impact on the surrounding environment and involves construction work, infrastructure projects or in any way intervenes in the natural surroundings and landscape, an **Environmental Impact Assessment (EIA)** has to be prepared and a 'development consent' from the competent authorities is required. Under the EIA,⁸ the **Strategic Environmental Assessment (SEA)**⁹ and **Aarhus Directives**,¹⁰ Member States are supposed to give the public concerned¹¹ the opportunity to express their opinion before the development consent is granted. There may be other Directives, Regulations and national laws that can be useful in arguing your case, such as the Habitats Directive.

See pages 43-45, 52 on EIAs

See pages 43,44 and 87 on Aarhus and page 89 on right to petition

See page 44 on Habitats Directive

See page 44 on filing and complaint

See page 48 on EU funding

The first step will be to raise your concerns with the competent authority in the country in which the project is planned or located. If your concerns are not acted upon, and you think the project in question infringes an EU law, you might want to contact the Commission and/or Parliamentarians for them to consult with the Member State or even to file a complaint at the Commission. Also check whether the EC is funding part of the project, which may open other avenues for action.

⁸ Council Directive 97/11/EC of 3 March 1997 amending Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment.


⁹ Directive 2001/42/EC on the assessment of the effects of certain plans and programs on the environment.

¹⁰ Particularly Art. 2 of Directive 2003/35/EC of 26 May 2003 providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment and amending, with regard to public participation and access to justice, Council Directives 85/337/EEC and 96/61/EC.


¹¹ "The public" shall mean one or more natural or legal persons and, in accordance with national legislation or practice, their associations, organisations or groups' – SEA Directive, Art. 2. And 'Member States shall identify the public for the purposes of paragraph 2, including the public affected or likely to be affected by, or having an interest in, the decision-making subject to this Directive, including relevant non-governmental organisations, such as those promoting environmental protection and other organisations concerned' – SEA Directive, Art. 6.

Example 3: Getting a policy adopted at EU level


See pages 80, 81 on the development of policies




See pages 21, 33-35 on EU competencies



See page 33 on competence over trade related matters and pages 20, 21 and 91 on the Treaty of Amsterdam



See page 67-79 on making EU law and pages 80-81 on the Council



Policies, communications, white and green¹² papers are non-binding, non-legal documents that outline the EU's position on a certain issue. In some cases these documents are strictly adhered to; in many other cases they are more or less ignored. Nonetheless, they can be quite useful in influencing the actions of EU institutions. Before starting on this path, however, it is important to know whether the EU has competence to deal with the issue and what its competencies are. With regard to forests, the EU has no competence over forest management, since it is a Member State issue, but it does have competence over trade-related matters. Still, the Treaty of Amsterdam has enshrined the concept of 'sustainable development' as one of the European Union's objectives, and environmental protection requirements have been given increased weight in other Community policies, especially in the context of the internal market (Articles 2 and 6 of the EC Treaty).

Most policies or communications are drafted by the Commission, approved by the college of Commissioners, and subsequently sent to the Parliament and Council for comments. In some cases, a communication leads to a legally binding document. The Council can confirm the communication or policy by adopting a Resolution or Conclusion advising the Commission on how to move forward and calling for follow-up actions (such as EU legislation or periodic reporting.) So, in order to influence the policy-making process, you may have to tackle every aspect of the EU process – from getting your issue on the Parliamentary or Commission agenda, through to meeting with the relevant Commission offices, and to meeting with the Council working group and the Presidency to influence positions and amendments.

¹² Green Papers are documents drafted by the Commission and intended to stimulate debate and launch a process of consultation at European level on a particular topic (such as social policy, the single currency, telecommunications, etc.). These consultations may then lead to the publication of a White Paper, translating the conclusions of the debate into practical proposals for Community action. See box on page 74.

Example 4: Getting EU legislation in place

Getting the EU to adopt a new law means convincing not only the Parliament and the Council, who in most cases adopt laws jointly, but also the Commission, who generally drafts the legislative proposal. The role of individual Member States is crucial at several stages in the process, including proposing the development of legislation to the Commission and encouraging or blocking progress within the Council.

See pages 67-79 on law making

There are two main types of EU law: 'Regulations' and 'Directives'. The difference between the two is that Regulations are directly implemented by all Member States, while a Directive has to be transposed into national law. The first attempt on the part of NGOs to get EU legislation related to forests is the current effort to get in place a Regulation to control the import of illegally sourced timber.

See pages 54-66 on how to get an issue on the agenda

Once the issue is on the political agenda, the Commission is the first port of call to influence the drafting process. This usually involves contacts with the relevant Directorate(s)-General (DGs), who will be responsible for drafting the legal text. Under the co-decision procedure, once a text is drafted and adopted by the full Commission, it is sent to both the Parliament and the Council for a first reading. Both can make amendments. It is important to talk not only to all the relevant Member States but also to the person in charge of drafting the Parliament's comments (the rapporteur) and to supportive MEPs in all political groups. Once a text is adopted, it will be binding on all the Member States.

See page 67-79 on law making

See page 71 on rapporteur

Many other examples could have been used, but we hope that these four will help you make sense of the EU maze. For those who have never worked at EU level, please first read the next chapter, which presents the fundamentals of how the EU works.



A The basics

1 If you don't know much about the EU, here are the basics ...

The EU is currently composed of 25 countries, known as Member States, and consists of a number of different institutions that together carry out activities on behalf of these countries. Conceived in the aftermath of the Second World War to create stronger economic ties between the countries that had fought so violently, it has since established regional economic integration and is in the process of determining its international political identity.

The EU Member States

- Fifteen countries formed the EU up to May 2004: Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, Netherlands, Portugal, Spain, Sweden, United Kingdom.
- In May 2004 10 more Member States have become part of the EU: Czech Republic, Cyprus, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia.
- Possibly in 2007 Bulgaria and Romania will accede. A final decision on the accession of Turkey will be made by December 2004.

As set out in the Treaty of the European Economic Community (EEC), known as the Treaty of Rome (1958), the European Community had as its main tasks the establishing of a common market and the convergence of the economic policies of its Member States. Although the 'free movement of persons' and some social issues, such as labour laws and working conditions, were included in the Treaty of Rome, the focus of the Treaty was of a purely economic nature. The EEC, in addition to its economic role, gradually took on a wider range of responsibilities including social, environmental and regional policies.

Since it was no longer a purely economic community, the Maastricht Treaty (1993) renamed it simply the 'European Community' (EC). Environmental protection was codified in 1987 under the Single European Act, while the concept of sustainable development and the goal of poverty alleviation for its aid program appeared in the Amsterdam Treaty (1999).

As a legacy of this common-market focus, European Union revenue is mainly derived from customs duties on goods imported into Europe, a share of VAT on all purchases made or services rendered and a contribution from the Member States that depends upon their gross national product. These public funds finance the implementation of Community policies and the running of the institutions. Principal expenditures are: the Common Agricultural Policy – 48 per cent; regional development – 35 per cent; research, energy, industry, environment, internal market – 6 per cent; cooperation with countries outside the EU – 5 per cent; administrative expenditure on Community institutions – 5.5 per cent; and other – 0.5 per cent; for a total of approximately € 90 billion.

Understanding the difference between the EU and the EC

People are often confused about when to use 'EC' (European Community) and when to talk about the 'EU' (European Union).

The European Community was established by the Treaty of Rome. Its main purpose was to establish the Single Market, but other activities have been included such as development cooperation. The Maastricht Treaty introduced new forms of cooperation between the Member States as described above and created the European Union, consisting of the European Community and two new pillars: 1) inter-governmental cooperation in foreign and security policy, and 2) inter-governmental cooperation in justice and home affairs. The role of the Parliament and the Commission is much smaller under these two newer pillars.

Technically, if Member States are discussing matters within the Treaty of Rome, such as trade, they should be referred to as the EC. If they are discussing matters coming under the Maastricht Treaty, or matters including national policies, they should be referred to as the EU. However, most people outside the Brussels maze use EU no matter what issues are being discussed.

See page 92-96 for an overview of the relevant Treaty articles



2 The nature of the beast: a legal construct ...

The creation of the EU can be characterised as a process of integration – the transfer of specific powers from Member States to the European level – and thus the EU faces **constant tensions and flux in its division of powers**. The EU has **competence**, i.e. is legally qualified to work, on only those areas in which the Member States have chosen to transfer specific powers to the European level. In addition, the Commission will propose action at EU level only if it considers that a problem cannot be solved more efficiently by national, regional or local action. This principle of dealing with things at the most local level possible is called the **subsidiarity principle**. These powers, and the way decisions are made about them, must have a **legal basis** in the Treaties that set the framework for the EU's work. These basic processes constitute the crucial underpinnings of how and why the EU works the way it does.

The Treaties of the European Union have been amended on several occasions, bringing major institutional changes and introducing new areas of responsibility for the European institutions. The latest revisions are the Treaty of Amsterdam, which entered into force in 1999, and the **Treaty of Nice**, which entered into force on 1 February 2003. That's the one to which you need to refer. A new Treaty or 'Constitution for Europe' is currently being drafted by the Convention on the Future of Europe, and should be adopted in 2004.

See page 31 on the
Constitution



Campaign Tip

Go through the Treaty articles at the end of this guide and identify the most relevant ones to your campaign. If you can find some that are particularly on point, they will give you an important hook in your discussions with Member State governments as well as with the Commission.

3 EU Institutions

EU decisions are made through the interaction of its three main institutions: the European Council, the European Commission and the European Parliament. Below is a brief overview of these three bodies and their respective roles. How to influence the decisions of these institutions will be further developed in the rest of the guide, along with specific examples.

a The Council

This is the main legislative and decision-making institution of the EU, which regularly meets in Brussels and in the country that holds the presidency. The Council represents the national governments of the Member States and holds six key responsibilities:

1. To pass European laws, mostly jointly with the European Parliament (EP)¹³
2. To coordinate the broad economic policies of the Member States¹⁴
3. To conclude international agreements between the EU and one or more states or international organisations¹⁵
4. To approve the EU's budget, jointly with the EP¹⁶
5. To develop the EU's Common Foreign and Security Policy (CFSP)
6. To coordinate cooperation between national courts and police in criminal matters.

Who to target in the Council?

Twice a year the Council meets at the level of the heads of state; these meetings are called summits. Otherwise it meets more frequently at the level of the various ministers according to their subject (environment, finance, etc.). This means that the representatives on the Council vary according to the subject discussed, and thus that there are *no permanent members of the Council*.¹⁷

The Council meetings are prepared either by the General Secretariat in close cooperation with the permanent representations to the EU¹⁸ of the Member States in Brussels, which form the Committee of the Permanent Representatives (known as COREPER), or by civil servants from the different national ministries in one of the 250 Council working groups. Every six months, one Member State takes the role of Presidency of the Council, i.e. becomes the driving force in the legislative and political decision-making process.

¹³ Article 202 EC.

¹⁴ Article 202 EC and Article 99 (4) EC.

¹⁵ Articles 300 and 310 EC.

¹⁶ Article 272 (3)

¹⁷ The Council of Foreign Ministers functions as a 'General Affairs Council' to deal with general policy questions.

¹⁸ Also called Permanent Representation.

For forests, the Environment Council, the Agriculture Council and the General Affairs Council are the most important. To influence the Council, campaigns need to focus their efforts at national level as well as at EU level.



Campaign Tips

- If you are seeking a legally binding instrument then you will have to target the EU Presidency and the Council in its role as legislator for the EU.
- To find the names and contact details of the representatives of the Governments of the Member States who regularly take part in Council meetings, people responsible for COREPER meetings, members of the General Secretariat of the Council of the European Union, including legal affairs see the directory at:
http://europa.eu.int/idea/bin/dispent.pl?lang=en&entity_id=12
- Some Member States have sub-national permanent representations in Brussels as well (e.g. the German Länder, Spanish regions, some major cities). These may play an important role in influencing the positions of their countries on major policy issues as well as being potentially useful sources of information.

b The European Commission

The European Commission is an independent executive body appointed by the Member States but politically answerable to Parliament. Its purpose is to act as the *neutral guardian of the States' shared interests* (i.e. to ensure that legislation and Treaty provisions are implemented and that EU law is enforced – jointly with the Court of Justice). In fact, it does much of the day-to-day work in the EU, including:

- proposing draft legislation and policies to the Council and the Parliament
- implementing EU policies
- managing EC funds and aid programmes
- chairing meetings of the committees which draft implementing provisions for Regulations and Directives
- negotiating trade and other international agreements on behalf of the Member States.

The main office is in Brussels, but you can find some specialised offices all over the EU.

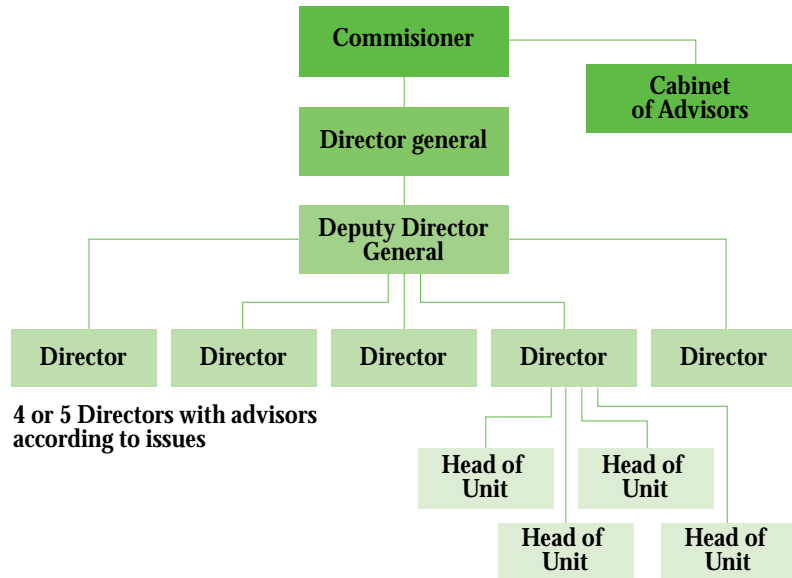
The Commission is composed of:

- A political arm – institutionalised in the position of the President of the Commission, two Vice-Presidents and a 'college', or group, of Commissioners who are political appointees of the Member States.
- An administrative arm composed of a number of Directorates-General (DGs) and other specialised agencies or services. Each DG is responsible for a particular policy area and is headed by a Director-General who is answerable to one of the Commissioners.

The 20 key Directorates-General are:

- Agriculture
- Development
- Competition
- Enlargement
- Economic and Financial Affairs (DG Ecofin)
- Environment
- Education and Culture
- External Relations (DG Relex)
- Employment and Social Affairs
- Trade
- Energy and Transport
- Enterprise
- Fisheries
- Health and Consumer Protection
- Information Society
- Internal Market
- Justice and Home Affairs
- Budget
- Regional Policy
- Taxation and Customs Union (DG Taxud)

Typical Commission hierarchy



For forests DG Environment, DG Agriculture, DG Development, DG External Relations (including the EuropeAid Cooperation Office), DG Trade, DG Enterprise, DG Enlargement and DG Regional Policy all play a role in influencing policies.



Campaign Tips

- Who you will need to target will depend on the type of policy you are concerned with and whether it is geographically determined.
- Most Commission people are in Brussels. Some offices are in Luxembourg, but the Commission has representations in all EU countries and delegations in many countries around the world.
- If you want to send an email to a specific person in the Commission, use the following email address format: `firstname.lastname@cec.eu.int` (e.g. `Joe.Bloggs@cec.eu.int`).
- For the organisational charts of each DG, see the following link: http://europa.eu.int/comm/secretariat_general/sgc/acc_doc/index_en.htm#
- For the Commission directory, see this link: <http://europa.eu.int/idea/pdf/en/en-intro.pdf>

c The European Parliament

The European Parliament (EP) is the only democratically and directly elected institution in the EU and thus the most sensitive to public opinion. It is currently composed of 786 members (MEPs). The next elections will take place in June 2004, electing a new Parliament for the next five years, that will consist of 732 members. It has offices in Brussels (Belgium) and in Strasbourg (France) where it meets once a month for its plenary sessions.

The EP has fundamental roles to play:

1. It shares with the Council the power to legislate.
2. It exercises democratic supervision over all EU institutions and in particular the Commission. It has the power to approve or reject the nomination of Commissioners, and it has the right to censure the College of Commissioners as a whole.
3. It shares with the Council authority over the EU budget and can therefore influence EU spending and the creation of budget lines. At the end of the procedure, it adopts or rejects the budget in its entirety.
4. It debates issues of public importance and may put questions to the Commission and the Council. Thus it plays a crucial role in broadening the focus of any policy-making discussions. While the EP doesn't have much independent power per se, its political role within the EU is growing.

The EP works in committees (e.g. environment, external relations, development, etc.) to propose and adopt amendments to Commission or Council proposals, and these amendments are then adopted or rejected by the Parliament as a whole in plenary session. It is also an important instrument for public pressure through questions, reports and hearings, for and accountability through petitions, the Ombudsman, etc. The Parliament also has the power to initiate reports on issues of particular importance, which the other institutions may not want to address.

On forest issues, the Environment Committee, the Development Committee, and the Industry, Trade, Research and Energy Committee are the most relevant committees.



Campaign Tips

- To consult the complete list of Members of the European Parliament (MEPs), see: http://www.db.europarl.eu.int/ep5/owa/p_meps2.repartition?ilg=EN&iorig=abc. Also see the websites of the different political groups: <http://www.europarl.eu.int/groups/default.htm>, which should give you the list of the assistants and the advisors for each topic.
- MEPs are organised in political groups, rather than by country.
- They are politicians and always busy. It is generally most useful to discuss any issues with their assistants, who can be your best allies.
- Plenary sittings are held in public, but make sure you have a picture ID to enter the building.
- If you want to send an email to an MEP, use the following email address format: firstinitiallastname@europarl.eu.int (e.g. JBlogs@europarl.eu.int).

d Other institutions

There are other institutions that also play a role in the EU such as the **Court of Justice** in Luxembourg (the final arbiter in disputes arising from the Treaties or any legislation based upon them), the **Court of Auditors** based in Brussels (the body that carries out the external control of expenditure by the institutions of the EU), the **Committee of the Regions** (a committee composed of 222 representatives of regional and local bodies in the EU, based in Brussels) and the **European Economic and Social Committee** (a committee also of 222 members representing various categories of economic and social activity and also based in Brussels). The last two have only an advisory function. The **European Investment Bank**, located in Luxembourg, is the largest multilateral development bank in the world and a semi-EU institution.

See pages 52-53 on EIB
and [www.bankwatch.org/
publications/index.htm](http://www.bankwatch.org/publications/index.htm)


B The EU and the forests

There is no mention of forests in the Nice Treaty, and there is no EU forest policy to date. Therefore all actions in this area have been carried out under the auspices of other policies, such as the common agricultural policy, the regional policy, and the development policy. This lack of a specific legal basis in the Treaty has meant that all measures in this area have been more or less ad hoc.

1 European forests

Two legally binding Regulations and a Directive have come to form the core of forest protection in Europe: the Regulation to protect EC forests against atmospheric pollution,¹⁹ the Regulation to protect the Community's forests against fire,²⁰ and the Habitats Directive. The objectives of the two Regulations have recently been incorporated into a new Regulation called 'Forest Focus'²¹ that has the broader objective of establishing an EC scheme for harmonised, broad-based, comprehensive and long-term monitoring of European forest ecosystems. In particular, it takes into account the impact of climate change on forest ecosystems and seeks to complement EU policies on biodiversity, carbon sequestration and soil protection. The amount of funds available via Forest Focus for the period 2003-2006 should amount to € 67 million. And for the period 2007-2008 this amount will be increased.²² Most EU funding for forestry projects within the EU will be available through the Rural Development Regulations, and more specifically through the European Agricultural Guidance and Guarantee Fund (EAGGF). It is estimated that forestry measures will represent 10-12 per cent of the EAGGF – € 4.7 billion – for the period 2000-2006.²³

See page 44 on Habitats Directive



¹⁹ 804/2002

²⁰ 805/2002

²¹ Regulation (EC) n° 2152/2003 http://europa.eu.int/eur-lex/pri/en/oj/dat/2003/1_234/1_32420031211en00010008.pdf

²² Figures subject to the authorisation of the budget authority.

²³ As stated by Mr. Flies (DG AGRI) in Joensuu, Finland (28.9.2003)


Although there is no EU forest policy, there is an **EU Forestry Strategy**, which was adopted in 1998. From an environmental point of view the existing Forestry Strategy is problematic:²⁴

- its priorities are skewed towards rural development and exploitation, thus it fails to give balanced consideration to the multiple functions of forests and does not mention the negative impact of certain existing EU forestry measures; and,
- it contains no means of protecting not only the few remaining areas of primary forests within the EU (mainly in French Guyana, Finland and Sweden) but also the larger areas in third countries that continue to be affected by EU trade and aid relations.

The existing Forestry Strategy is currently being evaluated.

2 Tropical forests

See page 92-96 for an overview of the relevant Treaty articles



All EC policies on tropical forests must fall within the general goals of development and environment as described in the Treaty. In the second half of the 1980s, as a result of the public outcry about the dramatic decline of tropical forests, forests moved high on the political agenda. Within the EC, the European Parliament was very active in introducing resolutions and reports that dealt with the problems of deforestation. The Commission responded with a Communication entitled: *The Conservation of Tropical Forests: The role of the Community* (1989).²⁵ For the first time, the EC saw a role for itself in tropical forest conservation.²⁶ The Communication was followed by a 1990 Council Resolution: *Tropical Forests: Development aspects*. The 1989 Communication was replaced in 1999 by a new Communication called *Forests and Development: The EC approach*.²⁷ A strategy for implementing the new Communication has been in preparation for the last two years.²⁸

²⁴ <http://www.fern.org/pubs/archive/forstrtx.htm>

²⁵ Communication 89/c 264/01

²⁶ The International Tropical Timber Organisation (ITTO) and the Tropical Forestry Action Plan (TFAP) were seen as important instruments for tackling the problem. 'Land reform' and 'correcting inappropriate policy incentives within and outside the forestry sector' were seen as good solutions to the issues. The six focal points for an EC strategy were: 1) development aid; 2) action vis-à-vis the timber trade, including the establishment of a code of conduct for logging companies; 3) inclusion of a few tree species in CITES; 4) increased funds for tropical forests; 5) debt-for-conservation strategies; and 6) research.

²⁷ Available at: <http://www.fern.org/pubs/eudocs/en.htm>

²⁸ Available at: <http://www.fern.org/pubs/eudocs/fordraft.pdf>

The Parliament pushed for practical action on the ground leading to the establishment, in 1991, of a budget line specifically to fund tropical forest projects: the **Tropical Forest Budget Line**. In 1995 this budget line was given a legal basis in the Regulation *Operations to Promote Tropical Forests*. The Regulation showed that the EC was interested in the trade aspect of tropical forests, which was translated as the 'defining and development of a certification system'. This Regulation was the first EU legal instrument to acknowledge the existence of forest peoples; it was also the first time attention was given to 'capacity building' and 'provision of information to forest peoples'. In 2000 the Regulation was replaced by a new one 'on measures to promote the conservation and sustainable management of tropical forests and other forests in developing countries'.²⁹

3 Non-Tropical – Non-EU Forests

The Taiga or boreal forests as well as the (temperate) rainforests in the US, Canada and Australia are not specifically addressed in any EU strategy, policy or communication. Because of a lack of policies in this area it is unlikely the EU will take a pro-active role in forest issues in these countries. However if deemed useful possibilities to use EU leverage in these areas could include:

- The framework agreements between Canada and the EU and between the EU and the US, including an EU-Canada action plan and an EU-US Action Plan. Regular meetings between the Commission and Canadian or US officials take place on a number of areas including environment and foreign policy co-operation.
- The joint activities the EU and the US and/or Canada develop in a number of forums, such as the G8 and the WTO, or in a number of specific areas such as the Forest Law Enforcements, Governance and Trade (FLEGT) activities.

For more information
on EU and Canada see
[http://www.europa.eu.int/
comm/external_relations/
canada/intro/index.htm](http://www.europa.eu.int/comm/external_relations/canada/intro/index.htm),
on the EU and the US see
[http://www.europa.eu.int/
comm/external_relations/us/
intro/index.htm](http://www.europa.eu.int/comm/external_relations/us/intro/index.htm)



²⁹ Regulation (EC) No. 2494/2000

C Much could change: the constitution and the debate over the future of the union

At the time of writing, the EU Member States are embroiled in a debate over the provisions of a new Draft Treaty for a European Constitution. The intended aims of the Constitution are to modernise EU decision-making processes and to simplify and consolidate in one single text all the treaties that establish how the EU works.³⁰

A multi-party process called the European Convention, chaired by former French President Valéry Giscard d'Estaing, presented a draft of this Constitutional Treaty to the Council in June 2003. In spite of some Members' numerous reservations, it is expected that 95 per cent of this draft will constitute the final Treaty. If all goes to plan, the draft should be debated, refined and unanimously approved by the next European elections in June 2004. After this government level agreement, the EU Constitution will have to be ratified through parliamentary vote or national referendum in each of the 25 countries before it can come into force, which will take at least one more year. If one of these countries refuses to ratify, in theory the Constitution dies, and the EU will have to function under its outdated procedures or under the other – highly unlikely – extreme alternative, the dissenting country could be expelled. Given the fact that neither of these options are attractive, other possibilities are currently being discussed.

The changes proposed in the current draft Treaty include:

- A non-voting Chair of the European Council will replace the current six-month Member State rotation. The Chair will be elected by the Members of the Council (heads of state or government and the President of the Commission) for a term of two and half years, and he or she will not hold any national mandate. An EU Foreign Minister will also be appointed by the Council to conduct the Union's common foreign and security policy. Both positions aim to increase the EU's political clout and dispel the idea that the EU is an economic giant but a political dwarf.

³⁰ Once the new Treaty has been agreed upon, FERN will present an insert to this guide to reflect the new Treaty text. In the meantime you can read the draft of the new treaty and comments at: <http://european-convention.eu.int/DraftTreaty.asp?lang=EN>.

- The powers of the European Parliament will increase further so that it votes on nearly all EU decisions and elects the president of the Commission.
- National Parliaments will get a new role in scrutinising proposed EU laws.

The main recommendations that civil society groups have presented in relation to the current Draft Constitution include:

- Rewriting several of the chapters on policies, making them coherent with the principle of sustainable development, especially in the fields of agriculture, cohesion, transport and trade policy.
- Underlining the importance of the accountability of the EU institutions to EU citizens and the need for access to the European courts on the part of citizens and their organisations, especially in the environmental field, in line with the Aarhus Convention.
- Safeguarding the positive outcomes of the Convention, which include the setting of poverty eradication as an overarching aim of the Union, the principle of policy coherence and the recognition of development cooperation and humanitarian aid as shared competence of the Union.
- Ensuring that development cooperation and humanitarian aid are not subordinated to the EU's foreign, security or commercial policy agenda: EU aid is not an instrument for projecting Europe's self-interest.
- Ensuring adequate policies to guarantee full and inclusive observance of the Charter of Fundamental Rights both by Member States and at EU level.
- Ensuring adequate policies to pursue a more effective human rights policy across the full spectrum of civil, political, social, economic and cultural rights, as an indispensable part of all the EU's external relations.

See pages 43, 44 and 78 on
Aarhus



A An EU issue or not? Is an EU campaign appropriate?

The first question to ask in considering an EU campaign is: Does the issue fall under the competence of the EU, does it fall strictly under the competence of the Member States, or is it a question of mixed competence? What EU tools (laws or political leverage) could be useful?

1 Look at the Treaty

In principle, a campaign directed at the EU can only be effective if **the EU has jurisdiction** over a particular issue, i.e. where the Member States have decided to pool their sovereignty and to delegate decision-making powers to the EU institutions. This point is **essential if your goal is to get EU legislation passed or a policy adopted**. For example, the EU (or, better, the EC)³¹ has the competence to draft legislation to control imports of illegally sourced timber because it is a trade issue, which falls, within the competence of the EU and cannot be dealt with at Member State level. Other issues, such as criminal matters, are considered to be the competence of Member States and thus can only be dealt with at that level.



Campaign Tips

- **Who has competence over what issue is set out in the EU Treaty, although there are often issues where competence is disputed between the Community and the individual Member States.**
- **Identifying the specific articles that are related to your issue can be useful to remind the officials about their responsibilities – such as, for example, Article 6, which refers to human rights as a foundation of the EU and thus something that all the officials should be promoting.**

³¹ For the difference between the EU and the EC, see the box on page 20.

2 Look at the relevant policy-making level and legislation

The other principle that you should bear in mind is that of subsidiarity:³² in other words, the Commission will propose action at EU level only if it considers that a problem cannot be solved more efficiently by national, regional or local action.

In practice this means that, since the EU has no competence to deal with EU forests, a campaign seeking to improve forest management in Finland, for example, should not be directed at the EU, but at the government of that country. Nevertheless, you can find EU legislation that requires Member States to take action to conserve certain natural habitats (notably the **Habitats Directive**) or allows you to participate in the decision-making on certain issues (the 'Aarhus Directives' on public access to information, public participation and access to justice in environmental matters).

See page 44 and 55 on
Habitats Directive as well
as www.fern.org or
www.taigarescue.org
See page 87 and 88 on
Aarhus and holding the
EU accountable

3 Look at the international level

At international conventions or forums, such as the United Nations Forum on Forests (UNFF), the Convention on Biodiversity (CBD) or the United Nations Framework Convention on Climate Change (UNFCCC), the **Member States jointly decide an EU position** so that they can speak with one voice in these forums. Although the EU has no competence over such international negotiations, the process of deciding a joint EU position is coordinated and influenced by the Commission, which **often plays a facilitating role by presenting and even pressing its position upon the appropriate Council working group**; the latter then develops a common position for the Member States based on the Commission's proposal. The EU position is then formally adopted by the Council and presented by the Presidency in intergovernmental forums. It is therefore useful and necessary to have an EU campaign, although **influencing the EU position will need to happen in the Member States more than in Brussels.**

³² Subsidiarity Principle (Article 5 of the EC Treaty): principle whereby the Union does not take action (except in the areas that fall within its exclusive competence) unless it is more effective than action taken at national, regional or local level. The EU official position argues that it is intended to ensure that decisions are taken as closely as possible to the citizen. However others argue that it was established for exactly the opposite reason: Member States (and specifically the UK) wanted to be able to continue their activities without interference from what, at that time, was a very progressive Environment DG, which allowed citizens to go over the heads of national governments to ask for environmental protection from the EC. Not that many decisions are taken at citizen level on environmental matters.

It is also important to advocate your positions **during these intergovernmental meetings**. The EU meets usually, twice a day to discuss its position based on what has happened during the day's meetings. Therefore, seeking to convince individual Member States' representatives can sometimes result in important changes to the EU position on issues that arise during meetings and negotiations.



Campaign Tips

- The EU can only act within the limits of the powers given to it by the Treaties. Thus, it is important to know what the Treaties say about your particular issue. Part 3 of this report provides an overview of all relevant Treaty Articles. The full text of the Treaties and consolidated versions are directly available on the following website:
<http://europa.eu.int/eur-lex/en/treaties/index.html>
- Note that the Treaty of Nice came into force on 1 February 2003 and thus the consolidated versions of the Treaty on European Union and of the Treaty establishing the European Community, incorporating the amendments made by the Treaty of Nice should be the one to look at.
- On trade related matters, under Article 133 (3) of the Nice Treaty the Commission has been given a mandate by the Member States to negotiate on behalf of the Member States. In these cases, as in competition areas, the Commission is the most 'powerful' body.

B Influencing a project

In this section we separate out the issue of projects that are part of the EU's cooperation and development and/or external relations efforts – i.e. 'aid to the South and East' – from the issue of aid to Member States' regions and to Accession States. This is because, although the process for influencing a project will not differ much, the organisational structure involved (i.e. which DG is in charge, which committee is involved, and which legislation and Treaty articles apply, etc.) is different.

1 EC aid/development cooperation with the South and East

a Overview: legislation, policies and organisation – developing your arguments

The European Commission is in charge of managing the European Community's development assistance,³³ also called EC aid.³⁴ EC aid is divided and managed through **regional programs** according to the objectives of the EC in a particular region and usually laid down in a partnership agreement of some sort with the countries concerned. One particularly important example is the **Cotonou Agreement**,³⁵ which sets out the legal basis for aid to the 77 African, Caribbean and Pacific (ACP) countries that have signed up to it.

If you have concerns about a project, **find the relevant agreement to understand the underpinnings and rationale for the aid**. Often, the agreement will contain references to issues such as the rule of law, human rights, and environmental integration that can help you make your case if, for example, your problem is illegal logging or insufficient consultation in a state that is party to the agreement. How the aid is spent is defined in **Country or Regional Strategy Papers (CSPs or RSPs)**,³⁶ which set the framework for the

See chart on next page



³³ See Articles 3 (r), 177 and 180 of the EC Treaty and the EC Development Policy adopted in November 2000.

³⁴ Note that 'European Community (EC) aid' refers to assistance that is channelled through and managed by the European Commission, excluding Member States' bilateral aid.

³⁵ For the text of the ACP–EU Partnership Agreement signed in Cotonou, see: http://europa.eu.int/comm/development/cotonou/index_en.htm

³⁶ Note that the strategy papers are often based on the World Bank's Poverty Reduction Strategy Papers. Copies of these Papers are available on the Commission's website:

- For ACP Countries Strategy papers, see: http://europa.eu.int/comm/development/body/csp_rsp/csp_en.cfm
- For non-ACP countries, see: http://europa.eu.int/comm/external_relations/sp/

EC's priorities, and in **National (or Regional) Indicative Programmes**, which indicate the focal areas (i.e. the projects) on which resources will be spent.

See pages 67-79 on law making



Finally, you will find that the specific project objectives and amounts of financial assistance allocated are set out in **Regulations**, usually renewed every five years, which you may want to influence.

EC Aid according to region, DG and source of control

<i>Region</i>	<i>Aid</i>	<i>DG in charge</i>	<i>Funding source</i>
Africa, Caribbean & Pacific (ACP)	European Development Funds (EDF) also known as Cotonou	DG Development	Member State provisions; decisions made by EDF Committee.
Asia Latin America	ALA	DG External Relations also known as DG Relex	Commission budget overseen by Parliament
South Eastern Europe (Balkans ³⁷)	PHARE and since 2001, CARDS ³⁸	DG Relex	Commission budget overseen by Parliament
Eastern Europe Central Asia ³⁹	TACIS	DG Relex	Commission budget overseen by Parliament
Mediterranean Basin ⁴⁰	MEDA	DG Relex	Commission budget overseen by Parliament
Thematic budget lines	e.g. tropical forests environment in development, NGO co-financing	DG Development	Commission budget overseen by Parliament
Thematic budget lines	Human rights and democracy	DG Relex	Commission budget overseen by Parliament

³⁷ Albania, Bosnia and Herzegovina, Croatia, Serbia, Montenegro and the Former Yugoslav Republic of Macedonia

³⁸ Community Assistance for Reconstruction, Development and Stabilisation (CARDS)

³⁹ Includes Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Mongolia, Russian Federation, Turkmenistan, Tajikistan, Ukraine and Uzbekistan.

⁴⁰ Morocco, Algeria, Tunisia (Maghreb), Egypt, Israel, Jordan, the Palestinian Authority, Lebanon, Syria (Mashrek), Turkey, Cyprus and Malta; Libya currently has observer status at certain meetings.

b Who to contact? When?

Depending on the stage of preparation that the project has reached, you will want to target one of the following levels:

Development of the Country Strategy Paper (CSP)

The CSP is developed by the EC delegation⁴¹ in the country concerned, together with the appropriate desk officer in Brussels, after consultation with the national government, Member States, other bilateral and multilateral donors and civil society. In reality, however, research by FERN and Eurostep has shown that the consultation of civil society groups was minimal in the last round of CSPs, as was environmental integration.⁴²



Campaign Tips

Important for Cotonou

In the 77 ACP countries, there is a legal requirement as part of the negotiated Cotonou Agreement (Article 2) to solicit and incorporate participation by 'non-State actors' in the development of these country strategy papers. EC delegations in Cotonou countries must have a contact person for 'non-State actors'. In all other countries, participation by non-State actors is only a moral requirement.

For more information, see:

- FERN's briefing sheet on EC aid:
<http://www.fern.org/pubs/briefs/aid2.pdf>
- FERN's briefing sheet on civil society participation:
<http://www.fern.org/pubs/briefs/civsoc2.pdf>

Project development and management

Once a CSP is approved, one single Commission agency, **EuropeAid**, is responsible together with the country's EC delegation for defining the list of projects for that country, in order of priority. This then has to be approved either by DG Relex⁴³ (Asia, Latin America, Russia and the New Independent

⁴¹ See: http://europa.eu.int/idea/bin/dispen.pl?lang=en&entity_id=3337 for the list and contact details of the EU delegations in each country.

⁴² See FERN's report *Forests at the Edge* (December 2002). Available at: <http://www.fern.org/>

⁴³ DG Relex is short for DG External Relations.

States) or by DG Development (ACP Countries). Once the list is approved, EuropeAid and the EC delegation are responsible for project appraisal, contracts and management. EuropeAid operates under a management board composed of the Commissioners from DGs Relex, Development, Enlargement, Trade and Economic and Monetary Affairs. The first two hold the political responsibility for EuropeAid's activities.

Project approval

For large projects you may also want to contact the members of the 'management committees', such as the European Development Funds (EDF) committee for the 77 ACP countries that have signed the Cotonou Agreement and the ALA committee for Asia and Latin America countries.⁴⁴ They represent Member States and are in charge of approving the projects. However, these committees only receive the project proposal a relatively short time before the scheduled approval date and thus will usually approve a project unless they are warned in advance about any problems and can be convinced in time to halt or amend the project.

See page 52 on EIB



Note that the European Commission administers grants, whereas EDF loans are usually managed by the European Investment Bank (through what is called the 'Investment Facility').⁴⁵ For other projects, you may want to influence the EU Budget through the Parliament. See page 41.

Monitoring and evaluation

In May 2000, the Commission established an **Inter-Service** (i.e. with representatives from various DGs) **Quality Support Group (IQSG)** to ensure that policy documents, programmes and procedures meet the Commission's quality standards, policy objectives and priorities. In addition, there is an evaluation unit in the European Commission under EuropeAid.⁴⁶ This unit is only in charge of evaluating thematic programmes and CSPs. The evaluation of individual projects is part of the project cycle and is therefore dealt with within the project rather than by the evaluation unit. However the unit is in charge of developing evaluation procedures and methodologies that can be used by all.

⁴⁴ See: http://europa.eu.int/comm/development/body/country/country_en.cfm

⁴⁵ For more information, see: http://europa.eu.int/comm/secretariat_general/sgc/aides/forms/aidco02_en.htm

⁴⁶ See: <http://europa.eu.int/comm/europeaid/evaluation/index.htm>



Campaign Tips

- When you need to ask for a meeting with someone in the Commission and need to go above the Desk Officer, send a fax or email to his/her Director and Head of Unit with a copy to the Desk Officer or whomever you need to meet down the line.
- It is advisable to meet or talk with the appropriate person in the EC Delegation in the recipient country before contacting officials in Brussels, as the Delegation is now responsible for the identification, preparation, and implementation of programmes and projects.
- Commission people change posts frequently and you may need to spend some time finding out who is responsible for what issue at what level. The easiest is to contact FERN and ask for a list of relevant people.
- Count on it taking more than a week to set up a meeting; and the higher up you go, the longer it takes.
- Copy members of the Evaluation Unit in on correspondence if you have concerns about a project.
- Relationships developed over time with Commission officials will be one of the most important elements of a successful campaign at the EU level.

c How to proceed

If you have concerns about a project:

1. Start by reading the CSP and NIP for the country in which the project is located.
2. Contact the **EC Delegation in the country in question** – they should have the most information about the implementation of a project and will understand its context – as well as the **Desk Officer at the relevant DG (Relex or Development)** and the **responsible person at EuropeAid**.
3. Send copies of any letter you may send about the project to the Desk Officers in the DG that has the political responsibility for the country in question, recalling that the perspective of DG Development will be different from that of DG Relex.
4. Should raising your concerns with the appropriate Commission officials prove not to be enough, you may need to raise the political pressure through the Parliament or the ACP–EU Joint Parliamentary Assembly.

See pages 41 and 42



See page 88 on EU
accountability



Note There is no complaints mechanism or inspection panel at EU level to deal with cases where citizens of non-EU recipient countries are adversely affected by EC programmes or projects, although there is one for EU citizens (the European Ombudsman). A complaints mechanism or inspection panel has been a long-standing demand from NGOs.⁴⁷

d The Role of the Parliament

If the problematic project is being funded through a budget line, it falls under the EU budget – and therefore the Parliament, and particularly the Parliament's Development Cooperation Committee,⁴⁸ has a role to play. *For more details on the powers of each committee, see Annex VI of the Parliament's Rule of Procedures.*⁴⁹

The Parliament can be useful in three different ways:

- by raising questions, passing resolutions or organising reports. See pages 57-63.
- in its role of budget controller (through the Budget Committee) See below.
- as one of the three pillars of decision-making. See page 69.

A particular case The European Development Fund and the ACP–EU Joint Parliamentary Assembly⁵⁰

The **European Development Fund (EDF)** is directly financed by Member States. Thus, while being the largest source of EC development aid (41 per cent), **the EDF falls outside the Commission's budget and therefore is not subject to Parliament's control.** To remedy the lack of democratic accountability in this case, the joint ACP–Parliamentary Assembly was created.

See box on next page



Influencing the budget⁵¹

Although it is not directly relevant to influencing a project it is important to be aware of the Parliament's budgetary powers. With the exception of the EDF, all budget lines covering development cooperation are included in the annual budget, which is decided jointly by the Parliament and the Budget Council. The Parliament debates it in two successive readings, and it does not come into force until the President of Parliament has signed it. The budgetary

⁴⁷ Tricia Feeny, The need for an EU inspection panel, FERN briefing sheet. Available at: <http://www.fern.org/pubs/archive/complain.htm>

⁴⁸ See: http://www.europarl.eu.int/committees/deve_home.htm. Note that this Committee might disappear when DG Development disappears.

⁴⁹ See <http://www2.europarl.eu.int/omk/sipade2?PUBREF=-//EP//TEXT+RULES-EP+20030201+RESP-DEVE+DOC+XML+V0//EN&HNAV=Y>.

⁵⁰ For more information, see: http://www.europarl.eu.int/intcoop/acp/20_01/default_en.htm.

⁵¹ For more information on this issue, see: Karine Sohet, Lobbying on EU Budget, Information Note (Aprodev, 27.03.02). Available at: <http://www.aprodev.net/>

The ACP–EU Joint Parliamentary Assembly brings together 77 MEPs and 77 elected representatives of the ACP countries that have signed the Cotonou Agreement. It works like a Parliament whose aim is to promote and defend democratic processes and to guarantee the right of each country to choose its own development objectives. A substantial part of the work of the Joint Parliamentary Assembly is directed towards promoting human rights and democracy.

In practice, the Assembly can be used to raise the political profile of an issue and trigger action in Brussels. The Assembly regularly puts together exploratory or fact-finding missions that are in direct contact with the situation on the ground in the various developing countries. Three standing committees have also been established to draw up substantive proposals, which are then voted on by the Joint Parliamentary Assembly. They focus on: 1) Political Affairs, 2) Economic Development, Finance and Trade, and 3) Social Affairs and the Environment.

So if you are concerned about a project in one of the ACP countries, the MEPs that are on the Assembly should be contacted.⁵²

procedure therefore allows Parliament to influence EU spending by proposing modifications and amendments to the Commission's initial proposals and to the position taken by the Member States in the Council. On agricultural spending and costs arising from international agreements, the Council has the last word, but on other expenditure Parliament decides in close cooperation with the Council. At the end of the procedure, it adopts or rejects the budget in its entirety. Also in defining the annual spending of budget-lines the Parliament has a say. Therefore the Parliament can be an important ally if you want to increase or decrease spending under certain budget lines.

See box on next page



Monitoring expenditure is the continuous work of the Parliament's Committee on Budgetary Control, which seeks to ensure that money is spent on the purposes agreed and to improve the prevention and detection of fraud. Parliament makes an annual assessment of the Commission's management of

⁵² The list is on the Parliament's website under international cooperation: http://www.europarl.eu.int/intcoop/acp/10_01/default_en.htm



Case Study

Almost every year there is a tug of war over the Forest Budget Line, as over many other thematic budget lines. The Council and Commission propose a decrease in the annual budget (detailed in the Regulation) from € 50 million to anything below that. There have been years that the Commission has proposed a € 0 budget. The Parliament, often supported by NGOs, then uses its budgetary powers to increase the budget up to its original € 50 million. After some negotiation between the Council and Parliament, with input from the Commission, the annual amount is usually set somewhere between € 30 million and € 40 million.

the budget before approving the accounts and granting it a 'discharge' on the basis of the annual report of the Court of Auditors.

2 Projects within the EU

a What you need to know

First whether a project is public or private, if it has a significant impact and involves construction work, installations, or in anyway intervenes in the natural surroundings and landscape, an **Environmental Impact Assessment (EIA)** must be prepared (in most cases) before authorisation is given (also called a **development consent**). The assessment must examine the direct and indirect effects of a project on human beings, fauna, flora, soil, water, air, climate and the landscape, material assets and the cultural heritage and the interactions of all of the factors, provide a study of alternatives and remedial measures and be open for public comment. The EIA Directive⁵³ outlines what project categories are subject to an EIA, which criteria shall be used and what procedure shall be followed, and the content of the assessment. Member States can still decide on a case-by case basis, which projects are subject to an EIA.

Second according to the EIA Directive and the Aarhus Directive on Public Participation⁵⁴ that modifies it, the public concerned can give its opinion and

⁵³ For more details, see Directives 97/11/EC amending Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment (EIA Directive). Annex I, II and III.

⁵⁴ For details, see Directive 2003/35/EC providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment and amending with regard to public participation and access to justice Council Directives 85/337/EEC and 96/61/EC

participate in the decision-making process. The public includes both people affected or likely to be affected by the project in question and people who have an interest in environmental decision-making procedures, which includes 'non-governmental organisations promoting environmental protection and meeting any requirements under national laws'.⁵⁵ The results of these consultations must be taken into account in the authorisation procedure for the project and the public has to be informed of the decision taken including any conditions attached, remedial measures if applicable, etc. The practical arrangements for public information and consultation are determined by the Member States themselves. To date, expectedly, the extent of public involvement varies considerably from one country to another, as does the interpretation of 'the public concerned'.

Third you should find the legislation pertaining to the issues you are concerned with. For example, if the project in question affects natural habitats or birds, you should look at the Directive on the Conservation of Natural Habitats and of Wild Fauna and Flora,⁵⁶ also known as the 'Habitats Directive'; it aims to promote the maintenance of biodiversity in Member States by defining a common framework for the conservation of wild flora and fauna and habitats of Community interest. It also says that Member States must take all necessary measures to guarantee the conservation of habitats in special areas of conservation, and to avoid their deterioration. You can also use Council Directive 79/409/EEC of 2 April 1979 on the Conservation of Wild Birds, whose objective is to protect, manage and regulate all bird species naturally living in the wild within the European territory of the Member States, including the eggs of these birds, their nests and their habitats. The same goes if you are concerned about water pollution, noise, etc.

b Filing a complaint with the Commission

If you believe that a Member State's law, Regulations or administrative actions (including the approval of a project) are incompatible with a provision or principle of Community law, then you may want to file a complaint against that State with the Commission. The object of the complaint will be to raise the Commission's awareness and to ask it to intervene in the context of an **infringement procedure** under Article 226 of the EC Treaty. The Commission can investigate and deliver a **reasoned opinion** on the matter, telling the

⁵⁵ See Article 3 of the Aarhus Directive cited on page 87.

⁵⁶ Council Directive 92/43/EEC of 21 May 1992



Campaign Tips

See page 48 on EC funding

See page 44 on filing a complaint

See page 85 on finding EU legislation

See pages 57-62 on raising an issue

- Do your research on the following: the legislation, who is in charge, who is funding the project, the status of the project EIA. Study the EIA Directive and the Assessment that has been prepared. Note that an EIA can be several large volumes.
- Once you have done your research, the next step will be to raise your concerns with the competent authority in your country. They might not have all the information to hand from the developer or have biased information; however, you might be able to convince them of serious problems and get them to attach conditions to the approval of the project. Alternatively you might be able to gain time enough to alert and activate public opinion in the country.
- The same tactic applies to the Commission, especially if the EC is considering funding part of the project.
- If you believe that the project contravenes EU legislation you may decide to file a complaint with the Commission. Find the legislation covering the issue you are concerned with (e.g. birds, noise, etc.).
- Another way to raise the stakes is to raise the issue with your MEP, asking him or her to table written questions, for example.

Common weaknesses in EIAs include: problems with the thresholds at which a project is considered subject or not to an assessment; problems with the quality of the EIA and insufficient attention to health impacts; problems with what the Commission calls 'salami slicing' or miscategorisation – i.e. where a project is divided into separate parts to avoid meeting the thresholds for assessment and development consents; problems with a too restrictive definition of the affected population, etc.

Member State to comply. If the Member State doesn't agree, the Commission may take the matter to the European Court. And if the Court rules in favour of the Commission's opinion, fines may be imposed on the Member State.

Note that the Commission is not competent to assess the environmental impact of individual projects, it is only competent to assess whether and how the Directive has been applied. To assess the correct application of Directives in Member States, the Commission bases its deliberations on a number of sources: on reports from Member States on the application of Directives; on



Campaign Tips

- International conventions signed and ratified by Member States (e.g. the Convention on Biodiversity) are binding upon them, once transposed into national laws.
- Look at the European Court of Justice (ECJ) judgments as these often clarify the interpretation of an article. A good example concerns The Espoo Convention on Transboundary Environmental Impacts, ratified by the Commission and the Member States. In C-133/94 Commission v Belgium, the ECJ held that the environmental effects didn't confine themselves to only those projects proposed in frontier regions. Therefore, the implementation of the Convention requires that neighbouring states be consulted not only for projects that are in close proximity to a boundary, but for any project that might be likely to have an impact on a neighbouring state.
- For details about the elements of a complaint and the Commission's procedure in response, see COM(2002)141 final⁵⁷.

See pages 89-90 on
Ombudsman



any complaints about specific potential breaches of EC Law; and on information raised through written questions and petitions brought to the Commission's attention by the European Parliament.⁵⁸ If you think that your complaint has not been dealt with adequately, you may consider filing a complaint to the Ombudsman on grounds of maladministration.

For the procedure on filing a petition, see: http://www.europarl.eu.int/petition/help_en.htm



Case Study

The Spanish National Hydrological Plan (SNHP) and WWF's campaign to defeat it⁵⁹

Adopted by the Spanish Parliament in July 2001, the highly controversial SNHP plans a new water transfer of 1,050 cubic hectometres per year from the Ebro River to the south-east of the country and a 'package' of 889

⁵⁷ See: http://europa.eu.int/eur-lex/en/com/cnc/2002/com2002_0141en01.pdf

⁵⁸ See Report from the Commission to the European Parliament and the Council On the Application and Effectiveness of the EIA Directive (Directive 85/337/EEC as amended by Directive 97/11/EC): How successful are the Member States in implementing the EIA Directive. June 2003.

public works. Claiming that the plan is incompatible with sustainable development objectives, NGOs, numerous academics, scientists, unions and political parties are trying to stop this project – mainly by trying to block the 40 per cent share of the funding from the Regional Development and Cohesion Funds. The groups assert that the plan not only contravenes the EU's Sustainable Development Strategy, but also violates the Water Framework Directive, several articles of the EU Treaty, several pieces of environmental legislation, as well as overall EC/EU commitments under international conventions, including the Aarhus Convention. Numerous complaints to this effect have already been lodged with DG Environment, which has put the approval of three other projects in the country on hold until it can be demonstrated that the water transfers are sustainable.

The main objectives of WWF's campaign on this project have been to stop the SNHP in its current form, and to push for its revision so that it properly implements the Water Framework Directive's principles and requirements. For this, the campaign has sought three things: to block EU funds for the project; to demonstrate that the Plan violates EU legislation (so that the SNHP could not be implemented with domestic funds); and to facilitate the information flow at EU level. In letters to the Commission, WWF has supported its concerns with references to specific EU legislation such as the Water Framework Directive (and its no-deterioration principle), the Habitats Directive (which protects the Ebro Delta and associated species, such as the *Margaritifera auricularia* – arguing that the SNHP would cause irreversible ecological damage) and the EU Structural Funds Regulation (as cheaper, faster and less damaging alternatives have been developed by WWF and its partners).

The campaign has learned valuable lessons. Prominent amongst these are: the need to work with a network of organisations that can provide a variety of expertise and work on different levels (local, regional, national, EU); the need to identify possible legal loop-holes in the project; the need to develop attractive media messages, since water infrastructure is not a very 'sexy' topic for journalists these days; the need to work from 'external agendas'

⁵⁹ For more information on this case, contact: Mr Guido Schmidt, WWF Spain, Gran Vía de San Francisco, 8 Esc. D. E-28005 Madrid (Spain); Tel: +34-913 540 578. Fax: +34-913 656 336./ Email: guido@wwf.es and <http://www.rivernet.org/Iberian/planhydro.htm#links>

with unclear deadlines; the complexity of decision-making at EU level; and the need for NGOs to adapt to the constant shift from 'technical' to 'political' reasoning on the part of the Commission.

To date, the campaign has neither stopped nor reversed the SNHP, but has delayed the Commission's decision-making process allowing the project's implementation to be temporarily blocked. It has also countered misleading information from the Spanish government to the Commission by developing detailed studies on the project's environmental and social impact, on the economic justification for the project, and on alternatives to the project – and obtained critical statements about the SNHP from scientific analyses international institutions (e.g. the Ramsar Convention), even if these statements are not binding.

c If the project in question is funded in part with EC funds

Funding streams

The Community can support projects within the EU through Structural Funds (see the chart below), through the Cohesion Fund and through the European Investment Fund (EIF). The European Investment Bank (EIB) also finances many large projects in the EU or Accession States. For each of these types of support, different documents and appraisal and approval procedures will be used.

The Structural Funds and the Cohesion Fund are part of the Community's structural policy, which is intended to even out the levels of development among the regions and Member States. The budget allocated to the Community's regional policy for the period 2000–06 is € 213 billion, comprising € 195 billion for the Structural Funds and € 18 billion for the Cohesion Fund. It represents 35 per cent of the Community budget, and is therefore the second largest budget item. The Cohesion Fund is intended for those countries with a per capita GNP of less than 90 per cent of the Community average – i.e. Greece, Spain, Ireland and Portugal – to give grants for environmental and transport infrastructure projects.

The Funds

Fund Name	Aim and Target	DG Responsible
European Regional Development Funds (ERDF) ⁶⁰	Promotes economic and social cohesion within the EU through the reduction of imbalances between regions or social groups and is targeted to support productive investment, infrastructure and SME development.	DG Regional Policy
The European Agricultural Guidance and Guarantee Fund (EAGGF – Guidance Section) ⁶¹	Supports measures for the adjustment of agricultural structures and the development of rural areas, including 'the development and optimal utilisation of forests'	DG Agriculture



Campaign Tips

Find out: the DG and person in charge; the objectives of the programme; and the type of aid being sought (e.g. Technical Assistance, Major Project, Innovative Actions, etc.).

For more information on the Funds, see Council Regulation EC 1260/1999, and http://europa.eu.int/comm/regional_policy/funds/prord/prords/implement/pdimp_en.htm

Although the Structural Funds are part of the Community budget, the way in which they are spent is based on a system of shared responsibility between the European Commission and Member State governments:

- The Commission negotiates and approves the development programmes proposed by the Member States and allocates resources.
- The **managing authorities**,⁶³ appointed by each Member State, manage the programmes, implement them by selecting projects (detailed in what is

⁶⁰ See: http://europa.eu.int/comm/regional_policy/country/prordn/index_en.cfm

⁶¹ For more details, see: <http://europa.eu.int/scadplus/leg/en/lvb/l60003.htm>

⁶² See: http://www.eipa.nl/Topics/Cohesion_Policy/EC_Rules_and_Cohesion_Policy.htm

⁶³ For a list of the managing authorities, see: http://europa.eu.int/comm/regional_policy/manage/authority/authority_en.cfm

called the '**programming supplement**'), and control and assess them. In particular, each year the managing authority prepares and sends to the Commission the **programme's annual implementation report**, which is supposed to ensure that the assistance is unfolding smoothly and making progress in achieving its targets.

- The Commission is involved in programme monitoring, commits and pays out approved expenditure, and verifies the control systems that have been put in place. In particular, the Commission can make observations or request certain changes to the programme, particularly to adjust it to the objectives but also to ensure compatibility with Community policies (notably rules on competition, the award of public contracts, environmental protection, the promotion of equality between men and women, etc.).



Campaign Tips

- While the broad priorities of a programme are identified in cooperation with the Commission in Brussels, the choice of measures and practical projects is the sole responsibility of the Member States.
- The evaluation reports must be made available to the public, so ask for them!
- 'Major projects' must undergo rigorous examination by the Commission to establish compliance with EU legislation before funding is agreed. Very often, the Commission asks for projects to be revised due to the potential negative environmental impacts. However, a key problem has been the lack of coherence between various Commission departments regarding legal infringements or the technical/economic viability of the plans. So, knowing that the Commission is not a uniform institution, think of laying your arguments out to the side mostly likely to support your views.

3 Projects in Accession States: PHARE, ISPA and SAPARD

a What you need to know

The EU has set up a number of assistance programs for Romania and Bulgaria, as well as for the six former Accession Countries that joined the Union in May 2004, to help them adjust to the legal and economic framework of the EU.

Programme	Focus	DG in charge
PHARE ⁶⁴	Institution building, infrastructure investment support and more generally economic and social cohesion	DG Enlargement
ISPA ⁶⁵	Environment and transport	DG Regional Policy
SAPARD ⁶⁶	Agriculture and rural development	DG Agriculture

Grants committed by the European Commission in the field of external aid are subject to an annual work programme adopted by the Commission.⁶⁷ The programmes are implemented through calls for project proposals to be managed either by the Commission in Brussels, or by the EC delegations in the candidate countries, or directly by specialised agencies set up in the countries. The Accession Partnerships contain precise commitments on the part of the candidate countries relating in particular to democracy, macroeconomic stabilisation, industrial restructuring, nuclear safety and the adoption of the 'acquis' – which stands for the *Acquis Communautaire*: the whole range of laws, practices, principles and obligations adopted or developed by the European Union – and they focus on the priority areas identified in the Commission's Opinion on the application of each candidate country for EU membership. In addition, each Accession Partnership is complemented by its own National Programme for Adoption of the *Acquis* for that country.⁶⁸

The programming of accession priorities, as set out in the Commission's Opinions, breaks down into short-, medium- and long-term priorities, to be adjusted during subsequent revisions of the Accession Partnerships. The progress made by each candidate country is recorded in an annual report to

⁶⁴ See FERN Briefing The EU PHARE Program for an overview. Available at: <http://www.fern.org/>

⁶⁵ The acronym stands for 'Instrument for Structural Policies for Pre-Accession.' For more information on ISPA, see: http://europa.eu.int/comm/regional_policy/funds/ispa/ispa_en.htm. For a list of projects see: http://europa.eu.int/comm/regional_policy/funds/ispa/projec_en.htm

⁶⁶ 4.9 per cent of the total EU SAPARD budget is spent on forestry, although the exact percentage varies from country to country, depending on that country's priorities. In Romania, for example, as much as 10 per cent is allocated to forestry. Expenditure on forestry ranges from € 2.9 million (€ 1.09 million from EU funding) in Estonia to € 214 million in Romania (€ 108.3 million from EU funding) over six years.

⁶⁷ To consult the DG Enlargement's work programs for 2003 including objectives, schedule of the calls for proposals, indicative amounts and expected results, see: http://europa.eu.int/comm/enlargement/work_pgr_2003/index.htm

⁶⁸ The NPAA gives details of each country's commitments with regard to adopting the 'acquis communautaire' and to achieving the membership criteria (i.e. the basic political and economic conditions that new countries must have in place to join the Union, in short – the rule of law, the protection of human rights, a functioning market economy, and adherence to the aims of political, economic and monetary union) that were set in 1993 for Accession Countries.

be written by the Commission. Financial assistance is thus linked to the candidate's progress and compliance with the programme for the adoption of the 'acquis.'

b How to influence projects in Accession Countries

In the case of Accession Countries, projects are selected and monitored by the candidate countries themselves but according to an investment plan adopted by the candidate countries and endorsed by the Commission, so that the Commission retains ultimate control of the use of the funds. As part of the accession process, the candidate countries (Bulgaria, Romania and Turkey) have to adopt EU environmental legislation.



Campaign Tip

Remember that the Commission's role is to ensure that Community law is transposed into national law and properly implemented. For that reason, DG Environment has a role in reviewing EIAs and ensuring that they meet the requirements on EIAs and consultation, among other things. If you have a concern about a project, it is very important that you ask to meet the person responsible in DG Environment and provide them with arguments as to why you think the project does not respect a Directive, based on your knowledge of the situation on the ground. This will make them better prepared to argue for improved EIAs or enable them to ask, for example, for extra conditions to be placed on any loans.

c A few words about the role of the European Investment Bank (EIB)

Influencing the EIB would require an entire guide to itself.⁶⁹ It is notorious for being an impermeable and untransparent institution, in spite of the size of its lending and the public nature of its funds. Nevertheless, you should know that it is an institution created by the Treaty of Rome, but owned and governed directly by the Member States. Its task is to contribute, through the financing of investment, to the integration, balanced development and economic and social cohesion of the Community. Although the bulk of projects is located within the Union, the EIB also has significant operations outside the Union,

⁶⁹ See, for example, CEE BankWatch Network's *Citizen's Guide* at: <http://www.bankwatch.org/issues/eib/main/guide.html> and www.bankwatch.org/publications/index.htm

implementing the financial components of agreements concluded under European association and development cooperation policies, mostly covered by a Community guarantee.

DG Economic and Financial Affairs (Ecofin) is responsible for 'the exercise of the rights and obligations of the Commission under the Treaty in respect to the EIB' – i.e. it has the political responsibility for it and thus the Director-General of DG Ecofin represents the Commission on the Board of Directors of the EIB. If the EIB is involved in the project you are seeking to influence, you should consider contacting DG Ecofin as well as informing the country desk officer in DG Development or DG Relex and the country's EC delegation. Note also that the Statute of the EIB requires every loan proposal to be submitted for a Commission opinion before being presented to the Board. In this context, the Commission – at least in theory – reviews the proposal's compliance with Community legislation. Other DGs such as DG Environment will be asked for their opinion if the project in question poses problems in that area.



C How to draw attention to your issue

To get the EU machinery moving on an issue is not an easy task, but an essential one if action is to be taken at that level. Events can propel an issue on to the official agenda and precipitate a political and legislative response: for example the Prestige oil spill off the coasts of Spain, France and Portugal during the summer of 2002. The spill caused so much havoc on the coasts of these countries that the EU prepared legislation making double hull tankers mandatory in EU waters. In the same way, in 1996, because of the high profile of the forest debate, the Parliament developed an own-initiative report, which demanded that the Commission develop a Forestry Strategy.⁷⁰ In most cases, however, it will be up to you to get your issue noticed. Below are some strategies that could be useful to you.

1 Getting attention through the Parliament

Since the adoption of the Maastricht Treaty, the Parliament can **provide the impetus for new legislation**⁷¹ by examining the Commission's annual work programme, considering what new laws would be appropriate and asking the Commission to put forward proposals and more generally by steering legislation and policy through the use of hearings, own-initiative reports and resolutions.⁷²

a What you need to know: the Parliament is often an ally

In general, the European Parliament has been consistently active in attempting to ensure that EU forest policy is environmentally and socially responsible, for example by publishing reports and adopting resolutions. It often falls to the Parliament to defend priorities that other EU institutions are not willing or not able to speak out for, such as the Tropical Forest Budget Line, as well as to protect its own legislative prerogatives.

See the box on page 43



⁷⁰ *Report on the European Union's Forestry Strategy*, Rapporteur David E. Thomas, 18 December 1996, A4-0414/96

⁷¹ Article 192 of the EC Treaty permits the EP, acting by a majority of its members, to request the Commission 'to submit any appropriate proposal on matters on which it considers that a Community act is required for the purpose of implementing this Treaty.'

⁷² Rule 59 of the EP's Rules of Procedure

Getting the issue on the EU agenda through the EP means actually having to convince an MEP (usually several), a committee, or a political group to take on your issue. Pick up the phone and ask for a meeting to discuss the issue and convince an MEP to do something about it. It helps of course if this issue has been discussed in the press – particularly the papers that the MEPs read, such as the European Voice, the Financial Times, or the main national papers of that MEP's country. Find out what would provide a link to a particular interest of the MEP in question – either by issue, by country or by region. The committees on which they sit will give you an idea but also consult their website if they have one or search the press for comments. Remember that MEPs are politicians and so they try to get their points of view heard. These MEPS are assigned to 17 permanent committees, 20 inter-parliamentary delegations and 14 delegations to joint parliamentary committees,⁷³ so you have some choice.

Under the Treaty, the Parliament organises its work independently. It decides its own agenda for its plenary meetings, called 'part-sessions,' which primarily covers the adoption of reports by its committees, questions to the Commission and Council, topical and urgent debates and statements by the Presidency. Thus the Parliament can be considered a useful ally for getting your issue on the EU agenda.

This section aims to get you thinking about how MEPs can help make your issue an EU issue. It is important that you grasp this as you will often, as an expert on your issue, have to 'help' by preparing questions, finding and inviting speakers for a hearing, providing information for own-initiative reports, suggesting the wording for resolutions, etc. We will discuss how to influence the EP's position (both committee and plenary) on a Commission proposal in the next two sections.

Committees

If, for example, you are concerned about a particular aid project, it is important to notify the Committee on Development and Cooperation, inform them of your concerns and ask them to take action. For a breach of the Habitats Directive, the Environment Committee (known as the Committee on Environment, Public Health and Consumer Policy) should be approached. For forest issues, the committees you are most likely to need to approach are: the

⁷³ See http://www.europarl.eu.int/committees/home_en.htm for a list of the committees and their members.



Campaign Tips

- MEPs have 'pet' or favourite subjects, on which they are easy to approach. Some Parliamentarians are concerned with transparency, accountability, corporate social responsibility, etc. It is important to find these out before you approach an MEP and/or their assistant. Know what committees they belong to since that will define the issues they focus on and on which they have the possibility to act.
- When Parliamentarians are in Strasbourg for their monthly plenary session or in their parliamentary constituencies, they are hard to reach. It is best to set up meetings when they are in Brussels instead. Check the Parliament's calendar to make sure they will be there rather than at home ('in their constituencies') or in Strasbourg when you are trying to schedule a meeting. You can find it at: http://www.europarl.eu.int/plenary/cal2003_en.pdf
- The minutes of each sitting, containing the Parliament's decisions and the names of speakers, are distributed for approval at least half an hour before the beginning of the afternoon period of the next sitting. Once approved, the minutes are published in the Official Journal within one month.
- Plenary meetings are actually called 'part-sessions' in EU jargon. It is the meeting of Parliament convened as a rule each month and subdivided into daily sittings. (Sittings held on the same day are considered to be a single sitting.)
- In most situations, whether you would like to get an amendment tabled, questions asked, agenda items proposed at the EP etc., you will need one MEP to 'author' the text and the endorsement of either at least 32 MEPs, or a committee or a political group.
- To find out which committee is responsible for your issue, see Annex VI of the EP's Rules of Procedures. Website address: <http://www2.eu.int/cm/sipade2?prog=rules-ep&l=en&ref=to>

Committee on Development and Cooperation, the Committee on Environment, Public Health and Consumer Policy, the Committee on Industry, Trade, Research and Energy, and the Committee on Agriculture.

The most important people on each committee are its **chairperson**, plus the two or three vice-chairs who are elected by the committee members. For reports and resolutions, a **rappporteur** writes the report and prepares the resolution and/or amendments. He or she does the bulk of the work and will usually have specialised knowledge, or at least a high level of interest, in the issue at hand.

Political groups

The eight political groups discuss the issues for debate and, of course, have the power to move issues onto the EP agenda. The Greens will often be sympathetic to issues related to forests or the environment but, as mentioned above, your efforts will succeed best if you seek the support of several political groups. Note, however, that the EPP and the PES are the predominant groups as you can see below.

Number of seats per political group, as at May 2004

Political groups	Abbreviation	No. of seats
European People's Party (Christian Democrats) and European Democrats	EPP-ED	294
Party of European Socialists	PES	232
European Liberal, Democrat and Reformist Party	ELDR	67
European United Left/Nordic Green Left	EUL/NGL	55
Greens/European Free Alliance	Greens/EFA	47
Union for Europe of the Nations	UEN	30
Europe of Democracies and Diversities	EDD	17
Non-attached	NA	44
TOTAL		786

The total number of seats will change to 732 after the June 2004 election

b Oral and written questions

The Parliament can also be crucial for getting information (but not documents or statistics) out of the Commission and the Council and generally

scrutinising the executive by asking oral or **written questions**⁷⁴ or instituting a committee of inquiry. The type of question will depend on the topic and how much support it can get. Questions are asked at the monthly session of the Parliament during the 90-minute question time.

Questions for written answer (Rule 44 of the EP's Rules of Procedures)

Such questions to the Council or the Commission can be asked by just one MEP and are therefore easier to get through. They are of two types, which the President of the EP decides on:

- **Priority questions:** i.e. questions which require an immediate answer but not detailed research. They are to be answered within three weeks of being forwarded to the institution concerned. Each MEP may table one priority question each month.
- **Non-priority questions,** which have a delay of up to six weeks for an answer.

The questions and their answers are published in the Official Journal of the European Union and published on the EP's website at:

http://www.europarl.eu.int/questions/default_en.htm

Questions for oral answer (Rule 42 of the EP's Rules of Procedures)

This type of question can only be asked if it has the support of a committee or a political group or at least 32 MEPs request it be placed on the EP's agenda. However no MEP may put more than one question to the Council or the Commission at any given part-session, i.e. per month.

The President of the EP then decides whether the question is admissible, and the Conference of Presidents (i.e. the President of Parliament and the chairmen of the political groups) decides whether and in what order the questions should be placed on the agenda. Questions not placed on the Parliament's agenda within three months of being submitted lapse.

Questions for oral answer must be sent to the Commission at least one week before the sitting on whose agenda they are to appear, and to the Council at least three weeks before that date.

⁷⁴ You can find the questions and the answers on the Parliament's website: http://www.europarl.eu.int/questions/default_en.htm

Generally, the questioner can speak for five minutes and only one member of the institution concerned answers.



Campaign Tips

You should expect to draft the question for the MEP. In which case, keep in mind that a question can be oral or written (see above) but it must:

- be concise and drafted so as to permit a brief answer
- be of general interest or relate to a current event if it is to have any chance of leading to a resolution
- not require extensive prior study or research by the institution concerned
- be free of assertions and opinions.

Be aware that a question will not be accepted if an identical or similar question has been asked and answered during the preceding three months unless there are new developments or the author is seeking further information.

An oral question may be answered only if the questioner is present or has notified the President in writing, before Question Time begins, of the name of his substitute. If neither is present, the question lapses.

For the practical details on getting information, see Part 3, section A, page 83.

c Hearings, fact-finding missions (Rule 154) and own-initiative reports

The EP has, in the course of the years, developed its own way of participating indirectly in the process of initiating legislation through **own-initiative reports** (Rules 59 & 153) and **accompanying motion for a resolution**. The competent parliamentary committees draw up the reports,⁷⁵ possibly after a public hearing and/or a fact-finding mission and only with the authorisation of the Conference of Presidents within two months.⁷⁶ Committee hearings of experts on a particular subject and fact-finding missions must be authorised

See pages 60-63 on resolution



⁷⁵ Rule 163 of the EP's Rules of Procedure

⁷⁶ Where such authorisation is withheld the reason must always be stated.

by the Bureau (i.e. the President and four vice-presidents of the EP). Resolutions are adopted by a majority vote of the MEPs in the plenary session.

The Commission responds to Parliament's initiative, hearings and investigation during the debate in plenary session. If the Commission agrees, it pledges to prepare a legislative proposal corresponding to the EP's initiative. If it disagrees, it has to explain its attitude in detail.



Campaign Tips

- If you can convince an MEP to ask his committee to hold a hearing, expect to propose the speakers, provide contact information and probably even pay for some of them unless they can pay for themselves.
- Note that the speakers will have to be balanced to present the view from all sides and not just from the NGO perspective.
- Preparations for such a hearing start four to six months before the date scheduled.
- Discuss the possibilities and terms of doing a press conference with the MEP who is hosting the hearing. (Draft your own press release too!)
- Think about preparing questions for the MEP and others to ask the speakers who are testifying.
- Make sure the reports that incorporate the results of the hearing get distributed to relevant decision-makers, press, national Parliaments etc. Note that the full text of the debates is rarely printed because of lack of funds.

d **Parliamentary resolutions**

Any MEP may table a motion for a resolution on a matter falling within the sphere of activities of the EU. Resolutions are non-binding. However, they set out jointly held views and embody the EP's opinion and thus can have some political influence.



Case Study

How resolutions can be effective

In October 1996 FERN and the Forest Peoples Programme supported the Parliament in adopting an emergency Resolution to ask the Venezuelan Government not to open up the State of Amazonas for logging and mining and to reform its policy towards indigenous peoples, ensuring them the rights to their traditional lands. Thanks to close cooperation with groups in Venezuela, the adoption of this resolution by the EP encouraged the Parliament in Venezuela not to revoke the decree and instead to save the state of Amazonas from logging and mining. Therefore, although these Parliamentary resolutions are not legally binding, in some cases they can be very effective.

There are three types of resolutions that can be useful:

- A **legislative resolution**, i.e. the EP's opinion on the text of any EU legislation
- A **non-legislative resolution**, or **own-initiative resolution**, reflecting the EP's view on any subject chosen on its own initiative but related to topics that are part of the EU's activities
- An **emergency resolution**, usually reflecting the EP's opinion on a specific case often related to human rights or humanitarian aid issues or important international problems.

See pages 69-79

See pages 59-60

See below

Resolutions are limited to a maximum of 200 words and must indicate the legal basis if it is a legislative resolution and provide detailed recommendations for action, of course respecting fundamental rights and the principle of subsidiarity. Where a proposal has financial implications, the resolution must indicate how sufficient financial resources can be provided. In terms of timing, resolutions must have been tabled and adopted by a majority of political groups before the voting session in Strasbourg.

Emergency resolutions

Urgent topics and resolutions are discussed in plenary meeting on the last day of the plenary session (Thursdays) in Strasbourg. Since only five can be discussed per month among the many that are tabled, the MEP who is calling

for it must explain why it cannot be discussed next month or even the following one. And even though they have no legislative impact, the attention given to them by the diplomats and government of any country highlighted attests to their impact.

Typical part-session schedule

Part-sessions, i.e. where the Parliament meets in its deliberative assembly, typically start on Monday afternoon around 5 p.m., after the political groups have met briefly, mostly to discuss the agenda. The President opens the session with a few announcements and calls the vote on the minutes of the preceding session and the agenda for that one. Parliamentarians then start examining reports until 9 p.m.

On Tuesday, the day of greatest attendance, the Members meet all day from 9 a.m. to 1 p.m., from 3 p.m. to 7 p.m. and from 7 p.m. to midnight. Meanwhile some committees meet between 5.30 p.m. and 7 p.m., and political groups from 7 p.m. to 9 p.m. Tuesday's agenda usually begins with urgent requests from the Council and the Commission that are put to the vote after the intervention of the presidents of the committees in charge. The rest of day is focused on examining reports and recommendations for legislation. At noon, an hour of voting takes place on the documents that have already been examined. From 5.30 p.m. to 7 p.m., there is question time for the Council.

Wednesday is also quite busy; it starts with agreement on the questions that will be discussed in the session on 'debates on problems that are current, urgent and of significant importance'. The most important voting session takes place at noon (texts that require a qualified majority in order to be amended or rejected).

On Thursday, the session starts at 10 a.m. after political groups have met to examine reports and then there is another voting session. The afternoon is dedicated to the 'debates on problems that are current, urgent and of significant importance', where a maximum of five themes are discussed. Votes on proposed resolutions take place in the last half-hour of the session.

e **Approving the Commission's annual legislative programme**

The Parliament must agree to the Commission's annual legislative programme, thus giving it the opportunity to influence it. The programme, prepared by the Commission and submitted to Parliament, establishes the EU's legislative priorities and sets a timetable for the submission by the Commission of all the proposals and documents contained in the programme and for their examination by the Parliament and the Council. The programme is debated and voted on in plenary session. This procedure responds to two needs: it underlines the institutional cooperation between the Commission and the Parliament and it also organises the examination of Community legislation as effectively as possible, while establishing a link with the Council in order to take account of the work programmes of the next presidencies of the Council.

To summarise this entire section, a key way to get your issue on the EU agenda is to convince a number of MEPs or members of the Conference of the Presidents of the European Parliament to embrace your issue.

2 **Using the Council Presidency and Member States**

More generally it is also possible to get an issue on the EU agenda through the Presidency of the Council, which convenes on its own initiative, at the request of one of its members or at the request of the Commission. It is the Presidency that is responsible for proposing the work programme, agenda and overall coordination of the work of the Council and the committees providing input to it.

Upcoming Presidencies

Jan 1 – Jun 30, 2005	Luxembourg
Jul 1 – Dec 31, 2005	United Kingdom
Jan 1 – Jun 30, 2006	Austria
Jul 1 – Dec 31, 2006	Finland

Presidencies after 2006 are to be determined no later than May 2005.

Work programmes, timetables of meetings and agendas of the Council, COREPER, and other preparatory groups are available at:
<http://ue.eu.int/cal/en/index.ht>



Campaign Tip

The agendas are prepared at least seven months in advance of each Presidency in accordance with the Council's rules of procedures – so if you want something to be placed on the Council's agenda, it is important to plan ahead.

In practice, the President draws up a provisional agenda for each meeting, consisting of a Part A and a Part B. Part A contains all items on which agreement has been reached in COREPER and which can be adopted without further debate. Part B contains those items with outstanding issues and differences of opinion, which need further debate by the Council members themselves. It is possible that in the course of a meeting an A item becomes a B item to be discussed then at the next meeting.

3 Using the Commission

The Commission, as mentioned above, is the guardian of the Treaties. As such, it has to keep abreast of any new situations and problems developing in Europe, and it has to consider whether the EU needs to take action or develop policy or legislation to deal with them. That is why the Commission is in touch with a wide range of interest groups. It also seeks the opinions of national Parliaments and governments.

If the Commission concludes that an EU policy or legislation is needed, it drafts a proposal that it believes will deal with the problem effectively and satisfy the widest possible range of interests. To get the technical details right, the Commission consults the experts on its various committees and working groups. The Commission can at any time withdraw a proposal or amend it. So in order to influence its agenda, it is important to understand how its machinery works. See the following pages.



Campaign Tips

Putting 'pressure' on 'technicians' (i.e. commission officials) to change their position does not work; you will have to 'convince' them. If you want the Commission to change a position or a text, it is crucial to do the following:

- Be clear about what you want, with whom you want to meet, and why you want to meet with them in particular
- Come very well informed and be on top of previous related 'positions', communications, Council resolutions, relevant Treaty articles and legislation, which you can use to strengthen your own position – know your case in sufficient depth to be able to convince
- Bring along your partner NGOs so as to present a common position. The Commission usually doesn't appreciate meeting with NGOs that have different opinions one after the other because it complicates matters for them.

Different divisions, or Directorates-General (DGs), of the European Commission are responsible for different aspects of the policies that affect forests. DG Environment has a significant influence on EU forests, since the only Regulation on forests ('Forest Focus') has shifted to it from DG Agriculture. Through its dealings with forest-based industries, DG Enterprise also exerts influence on forests within EU Member States. As far as it is possible, DG Environment is responsible for elaborating legislation with a directly protective effect on European forests (e.g. regarding forest fires and atmospheric pollution) and concerning their role as habitats. DG Trade is responsible for trade policy and trade negotiations – for example, within the WTO. DG Relex is responsible for the EC's policy towards Asia, Latin America, Russia and the Newly Independent States, and the Mediterranean countries, as well as for financial assistance for forest projects within these countries. DG Development deals most directly with the African, Caribbean, and Pacific countries party to the Cotonou Agreement, as well as defining the EC forests and environment-related policies in relation to developing countries.

The Commission organises and chairs numerous committees. For forests in the EU, there is the Standard Forestry Committee, which meets when called upon to do so by DG Agriculture to discuss forest-related issues that have reached implementation stage. The Standard Forestry Committee is not

See page 76 on how to get access to Council working group

involved in decisions on Policies, Regulations etc., which are dealt with by the appropriate Council working group. It should, however, be noted that in many cases the same people participate in both the Council working group and the Standing Forestry Committee. Neither is a good forum for getting an issue onto the EU agenda, but it is necessary to inform them when 'your' issue is being discussed in these Committees or working groups.



D Making EU law

Under the Treaty, the Commission has the 'right of initiative.' In other words, the Commission is responsible for drawing up proposals for new EU legislation, which it presents to Parliament and the Council. These proposals must aim to defend the interests of the Union and its citizens, not those of specific countries or interest groups.

1 EU legislation

Binding EU legislation relevant to forests will take one of two main forms:⁷⁷

- Regulations – these are directly enforceable laws, applicable and binding on Member States. No local or national law needs to be passed to give them force. Examples include all issues for which the EU has direct competence, for example all issues related to the single market (trade-related issues).
- Directives – these are legally binding but lay down the objectives to be achieved, leaving it to the Member States to decide the best means of achieving these aims within a given time limit (usually two to three years). In most cases the Member States need to transpose Directives into national law before they can implement them.

2 EU decision-making

There are three main procedures for enacting new EU laws, the rules and procedures of which are laid down in the Treaty. These procedures are:

⁷⁷ A third category of Community legal act consists of 'Decisions.' In some cases the Community institutions may themselves be responsible for implementing the Treaties or Regulations, and this will be possible only if they are in a position to take measures binding on particular individuals, firms or Member States. The Community institutions can thus require a Member State or an individual to perform or refrain from an action, or can confer rights or impose obligations on them. The basic characteristics of a decision can be summed up as follows:

- It is distinguished from the Regulation by being of individual application: the persons to whom it is addressed must be named in it and are the only ones bound by it.
- It is distinguished from the Directive in that it is binding in its entirety (whereas the Directive simply sets out the objectives to be attained).
- It is directly applicable to those to whom it is addressed. A decision addressed to a Member State may, incidentally, have the same direct effect in relation to the citizen as a Directive.

Decisions are used in cases, for example, of granting or refusing State aid, the annulment of agreements or arrangements contrary to fair competition and the imposition of fines or coercive measures.



Case Study

The Parliament's lawsuit against the Council

The Parliament brought a case for the annulment of Regulation 307/97 amending Regulation 3528/86 on the protection of the Community's forests against atmospheric pollution, and of Regulation 308/97 amending Regulation 2158/92 on the protection forests against fire.

The Parliament argued that the Regulations had been adopted on an inappropriate legal basis (Article 43 of the Agriculture section of the Treaty) and that its prerogatives concerning its participation in drafting legislation had been affected (under Article 43 the Parliament is only consulted; under the Environment section – 130S – the procedure is either cooperation or co-decision with the Parliament). The Council admitted that neither trees nor forests are agricultural products within the meaning of the Treaty.

However, the Council argued that the aid scheme for the afforestation of agricultural areas set up in 1992 initiated a forestry strategy 'designed to ensure the increasingly close involvement of farmers in the process of turning forests to account' and that Community forest schemes, even if mainly environmental at the outset, are no longer so (paragraph 10). The Commission intervened in support of the Council, arguing that trees and therefore forests must be regarded as 'products listed in Annex II of the Treaty', i.e. agricultural.

The Court examined the purpose and the content of the challenged rules in order to determine the correct legal basis. It concluded that, in this instance, 'measures to defend the forest environment against the risks of destruction and degradation associated with fires and atmospheric pollution inherently form part of the environmental action for which Community competence is founded on Article 130s of the Treaty (para.16)' and that therefore, in using Article 43 as its legal basis, the Council infringed essential procedural requirements and undermined the Parliament's prerogatives (para. 20). The Court suspended the effects of the annulment until new Regulations could be adopted, 'within a reasonable period'.

- Co-decision
- Assent
- Consultation

The main difference between these procedures is the way the Parliament interacts with the Council. The principal rule today is that the Council and the European Parliament, on an equal footing, jointly adopt EU legislation via the so-called 'co-decision procedure'. This procedure means that in principle the European Parliament and the Council share equal legislative power. This is the case for all legislation regarding the environment and development cooperation. Under the consultation and assent procedures, Parliament merely gives its opinion. This is the case with trade issues.

Generally, when the European Commission is proposing a new law it identifies the legal basis – in other words which Treaty article the law is based on – according to the objectives of the proposal. The legal basis in turn determines the decision-making procedure to follow. This choice is very important, as it determines the role the Parliament will play in adopting a new law. In general⁷⁸ the Council takes decisions under qualified majority voting. This means that a Member State may be held to a decision, even if it disagrees with it.

See page 77 on qualified majority voting



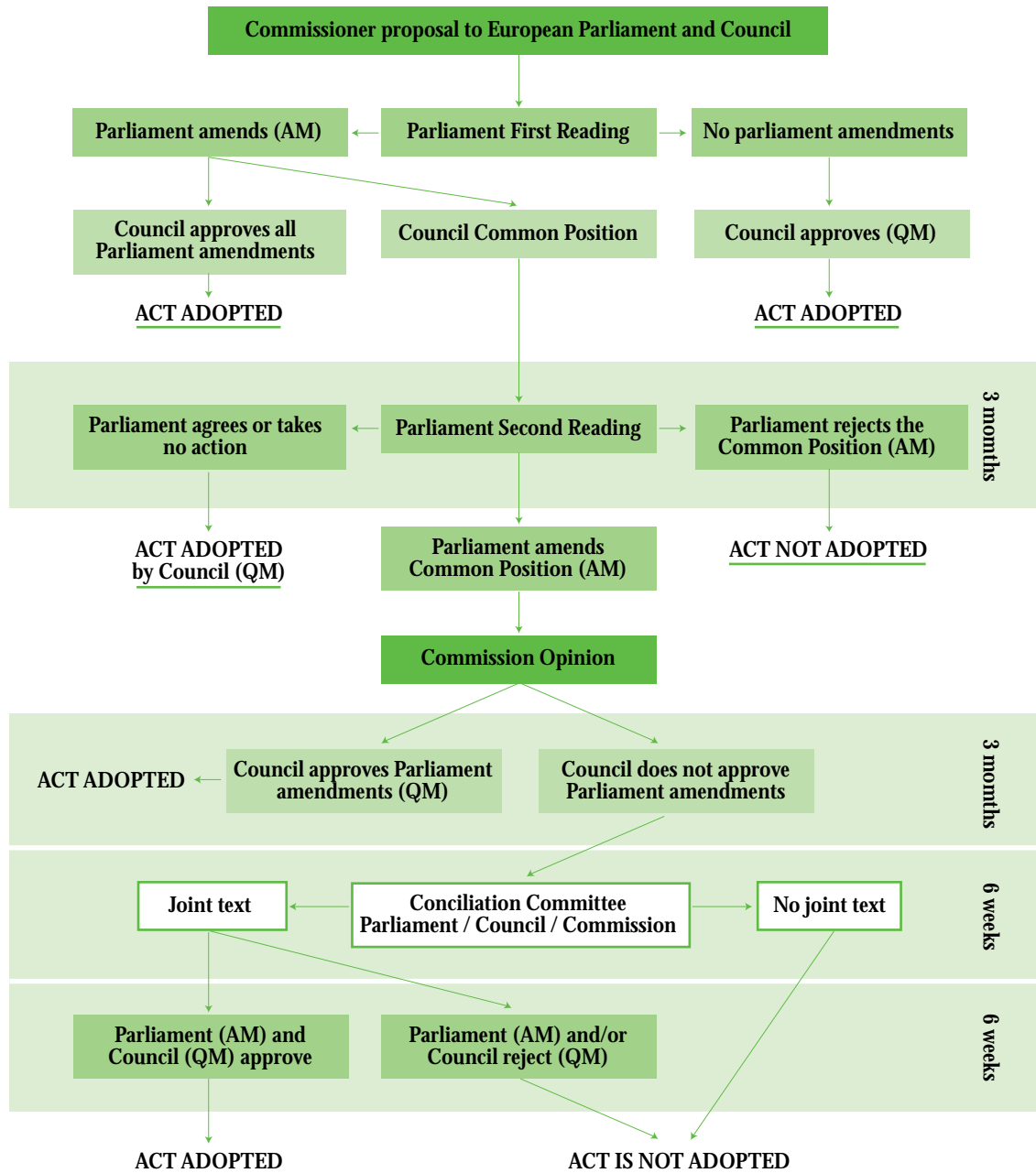
a The co-decision procedure – Article 251

As mentioned above, the principal rule today is that the Council and the European Parliament, on an equal footing, jointly adopt EU legislation via the so-called 'co-decision procedure.' This procedure means that, in principle, the European Parliament and the Council share equal legislative power. If both institutions are in agreement, the proposal is adopted at the first reading. In the event of disagreement, the proposed legislation can only be adopted after successful **conciliation** between the Council and the European Parliament.

The areas covered by the co-decision procedure include, among others, transport, health, consumer protection, trans-European networks, the environment, transparency, preventing and combating fraud, and the implementation of decisions regarding the European Regional Development Fund.


⁷⁸ In all issues relating to the first pillar, see the box on page 20 on the difference between the EU and the EC.

Co-Decision Procedure



AM: absolute majority of members QM: qualified majority of vote

See page 27 on ECOSOC and Committee of the Regions




How does it work?

- 1 *The Commission drafts a proposal*, usually based on suggestions by or legislation from a Member State. The draft proposal takes in the advice of various committees and experts. It is then sent around all the DGs for an inter-service consultation and is finally approved by a majority vote of all the Commissioners. The approved proposal is sent to the Council and the Parliament, and also for consultation with ECOSOC and the Committee of the Regions if appropriate.

- 2 *First reading in the Parliament*: Once the proposal has been sent to the Parliament, it is the relevant committee that takes it from there. Under the normal procedure,⁷⁹ a **rapporteur**, appointed by the committee, drafts a **report** in which amendments to the Commission's proposal and a legislative resolution may be suggested. This is the proper moment to intervene and to make sure that amendments are proposed by friendly MEPs. If appropriate, the report may also include a financial statement and overview of the compatibility of the proposal with the budget. After debate and a vote within the committee, the report and proposal are submitted to the plenary session of Parliament for debate and a vote. There, yet further amendments may be suggested and adopted. This is what is called the first reading. If there are amendments tabled, the Commission must first give its opinion on each of the amendments before the legislative resolution (in this case the list of amendments) is put to the vote.

See page 77 on qualified majority voting



If there are no amendments, then after the first reading the proposal goes to the Council for approval by qualified majority voting and, if adopted, passes into law.

- 3 *Council responses to EP amendments*: At this stage, there are two possibilities:
 - a *The Council approves all the amendments proposed*, in which case the legislation is adopted and passes into law. Within the Council, the decision is prepared by a working party and by COREPER. If a consensus has already been reached on the decision to be taken, then it is put on the Council agenda as a Part A item and is adopted by the ministers on the nod. Otherwise the matter goes on the agenda as a Part B item for debate and a qualified majority vote.

⁷⁹ This is to be distinguished from the simplified and urgent procedures. See Rule 158 and 112 of the EP's Rules of Procedures respectively.

- b *The Council does not adopt the amendments of the Parliament; it establishes, by qualified majority, a **Common Position**.* After the Commission has given its opinion on this Common Position, the legislation is sent back to the Parliament for its second reading.
- 4 *Second reading:* if 3b applies, then within three months the Parliament examines the Council's Common Position and makes its decision:
 - a *The Parliament approves the common position or takes no action* → the Act is adopted.
 - b *The Parliament rejects the common position* → The Act is NOT adopted.
 - c *The Parliament puts forward amendments to the Common Position.*
- 5 The Commission gives its opinion: If 4 c applies, the Commission has to comment on the amendments either at that particular plenary session or by the following one:
 - a *If the Commission's opinion is negative*, it can only be overruled by a unanimous vote of the Council for the amendments and the legislation to be adopted.
 - b *If the Commission's opinion is positive*, only a qualified majority vote is needed in the Council for the amendments and the legislation to be adopted.
- 6 *The Council reviews the EP's amendments to the Common Position and Commission's opinion about those amendments.* This must happen within three months. There are two possibilities:
 - a The Council approves all the Parliament's second reading amendments → The Act is adopted in the form amended.
 - b *The Council does not approve all amendments.*
- 7 If 6b applies, *the Conciliation Committee⁸⁰ is convened:*
 - a The Conciliation Committee does not reach agreement. → The Act is not adopted.
Note though, that the Parliament generally gives in at the end: promises from the EP are not a guarantee that your favoured amendments will pass. Beware of trilogue meetings, which often precede any formal conciliation meeting. They are informal meetings called at short notice

⁸⁰ Conciliation Committee: convened by the Presidents of the EP and the Council President and to which each brings a delegation of 15 members from each institution. The Commission participates as well.

in an ad hoc manner between the COREPER representatives, the MEPs and normally the Commission officials responsible.⁸¹ In spite of their informality, many final decisions are made there.

- b *The Conciliation Committee reaches an agreement.* The joint text goes back both to the Parliament for a third reading and to the Council.

- 8 *Third reading:*⁸² If 7b applies, the joint text from the Conciliation Committee is put to vote in the plenary session six to eight weeks later. A designated member of the Parliament's delegation to the Conciliation Committee makes a statement on the joint text, which is accompanied by a report. No amendments can be tabled at this point.

To be adopted the text must be approved both by the EP and by a qualified majority at the Council. If either the EP or the Council fail to approve the legislation at this point, then the legislation falls.

The co-decision procedure applies to most of the decisions pertinent to forests. However, there are some areas that affect forests in which it does not apply. These are: agriculture, structural and cohesion funds, and trade-related matters. In these cases, the assent procedure or the consultation procedure applies:

b The assent procedure

This procedure means that the Council has to obtain the European Parliament's assent before certain decisions are taken. Parliament can accept or reject a proposal but cannot amend it. This is the procedure used by decisions related to structural funds and cohesion funds. It is also applied for certain international agreements (Article 300) and for the accession of new Member States (Article 49 of the Treaty on European Union).

c The consultation procedure

Under this procedure the opinion of the European Parliament is sought, but it has no legal power. Once it has received this opinion, the Commission can amend its proposal accordingly. The proposal is then examined by the Council, which can adopt it as it is or amend it first. However, if the Council decides to reject the Commission proposal, this must be a unanimous

⁸¹ The main reason for these trilogues is that, under the Amsterdam Treaty, co-decision matters were extended from 15 areas to 38 while the deadlines to reach consensus decisions have been tightened.

⁸² EP Rules of Procedure, no. 83

decision. The areas covered by this procedure are, among others: police and judicial cooperation in criminal matters, revision of the Treaties, and agriculture.

3 Influencing the drafting and approval process

a At Commission level

To get 'your' legislation passed, you will want to influence the drafts that percolate through the EU machinery. Usually, **one Commission DG is responsible** for preparing a draft. In theory, this is based on extensive consultation with any relevant European bodies, including ministries in the Member States and civil society organisations. It is usually very difficult to formally influence the drafting process, although comments, blueprints and suggestions presented to the Commission may find their way into the document.

The different types of Commission documents

- **COM docs:** Most proposals for legislation, green and white papers, communications and other working documents are published as COM documents. These documents are numbered by the year of publication plus a running number
- **Green papers** are commission documents intended to stimulate debate and launch a process of consultation at European level on a particular topic.
- **White Papers** are Commission documents containing proposals for Community action in a specific area. In some cases they follow a Green Paper published to launch a consultation process at the European level.

The proposed legislation (either a draft Directive or a draft Regulation) is then discussed with all Commission departments and amended, if necessary, in an 'inter-service consultation'. It is then checked by the Legal Service and by the Commissioners' 'cabinets' (personal political staff). These proposals become official only when 'adopted' by the team of Commissioners (also known as

'College') at its weekly meeting, usually on Wednesdays in Brussels. Once the Commissioners have approved the document, it becomes an official Commission document that will be sent to the Council and the Parliament. Only at this stage can you present formal comments on the draft legislation.

If there is disagreement among the Commissioners, the President will ask them to vote on it. If a majority are in favour, the proposal will be adopted. Thereafter it will have the unconditional support of all the Commission members. The Commission's legislative proposals⁸³ are then presented to the Parliament and/or the Council depending on the decision-making procedure used. See above.

Putting 'pressure' on Commissioners is possible but should be done with great care, because it is always the full College of Commissioners that approves any decision or position presented by the Commission, and so to pick on one Commissioner for a particular decision is not easy. Although the agenda and minutes of meeting of the Commissioners are now made available, they are very limited in presenting a clear picture of the discussion and decisions made.

b At Council level

Influencing the position of the Council has to start with members of the appropriate Council working group(s) and the members of the Permanent Representatives Committee (COREPER).⁸⁴ COREPER oversees and coordinates the work of some 250 committees and working parties that are made up of civil servants from the Member States who prepare at a technical level the matters to be discussed by COREPER and the Council. Unfortunately, the minutes of COREPER and working-group meetings are not disclosed to the public. And in any case, these minutes only describe consensus positions and do not specify who said what.

It is very important to influence the position at the Member State level as well so that clear messages are sent to their COREPER representatives. Otherwise, in a vacuum, it is tempting and easier for the representatives simply to follow the line of argument presented by the Commission.

⁸³ For the list of Commission proposals, see: <http://europa.eu.int/eur-lex/en/com/index1.html>

⁸⁴ For more information, see the Council's working procedures at: <http://ue.eu.int/en/info/RIEN.pdf>



Campaign Tips

For getting an EU position on international forest policy issues

- To meet with the Council working group, you need to be invited by the Presidency.
- The Council working group will ask for the Commission's opinion, so it is necessary to work on the support of both.
- Attend the meeting jointly with other NGOs as that is most powerful position. Divided NGO opinions are not successful.
- Since the Chair of the Council is held by the Presidency, it is often useful to look at the website maintained by that country's Representation.
- Find out who, in your country, attends these meetings in order to help figure out what was said and who may be blocking on a particular issue.

Putting pressure on the Council by showing which members are opposed to a certain decision is difficult but possible. It has been done with success by Greenpeace in their campaign on genetically modified organisms, in which they shamed Member States into action by putting their names on banners.

Jacob Soderman, the EU's Ombudsman until May 2003, cited the Council's failure to become more transparent as probably his biggest disappointment in his seven years serving as Ombudsman. He stated that the Council is very good at preaching to others about the importance of fundamental rights, but would do well to promote this itself.⁸⁵

c At Parliamentary level

If the Treaties do not provide otherwise, Parliament acts by an absolute majority of the votes cast.⁸⁶ Once the issues have been discussed in parliamentary committees, the voting is put to the plenary sessions, attended by all MEPs. These are normally held in Strasbourg (one week per month) and sometimes in Brussels (two days). At these sessions, the Parliament examines proposed legislation and votes on amendments before coming to a decision on the text as a whole.

⁸⁵ European Voice 27 March–2 April 2003

⁸⁶ Article 198 (144) EC

Qualified majority voting (QMV) is the most common voting procedure at the Council. It means that, for a proposal to be adopted, it needs the support of a specified minimum number of votes.

- Until 1 May 2004, the minimum number of votes required is 62 out of the total of 87 – i.e. 71.3 per cent (the votes are distributed among the countries according to population size).
- For six months from 1 May 2004, when new Member States join the EU, transitional arrangements will apply.
- From 1 November 2004, a qualified majority will be reached if a majority of Member States approve *and* if a specified minimum number of votes is cast in favour. The actual number will depend on how many new Member States have joined at any particular time, but the percentage will remain approximately the same and cannot exceed 73.4 per cent.
- In addition, a Member State may ask for confirmation that the votes in favour represent at least 62 per cent of the total population of the Union. If this is found not to be the case, the decision will not be adopted.
- Some particularly sensitive areas, such as taxation, asylum and immigration policy, require unanimous approval – i.e. each Member State has the power of veto.

4 How to influence a Parliamentary position

See box on next page for details

Once draft legislation or policy has come out of the Commission, the best way to influence it is through the Parliament – by convincing an MEP to propose questions and **amendments**. Ideally it is best to work with the rapporteur whose job it is to draft the report and resolution. Otherwise any sympathetic MEP on the committee (ideally talk to all of them) can propose amendments during the committee discussion.

It is also possible to propose amendments at Parliamentary plenary level, but they must be endorsed by either at least 32 MEPs, a whole committee or a whole political group.

While amendments can normally only make changes to parts of the text, in the case of a *non-legislative resolution* a political group can table an entire alternative to the resolution contained in a committee report. The group's motion for a resolution cannot be longer than the committee's motion for a resolution, and it is put to a single vote in Parliament without amendment.



Campaign Tip

Amendments

- are tabled in writing and signed by their authors
- are used to propose changes to a single article or paragraph of a 'text' by deleting, adding or substituting words or figures. A 'text' in this context means a motion for a resolution or draft legislative Resolution, a proposal for a decision or a Commission proposal.
- have the deadline for tabling and decision on whether or not it is admissible set by the President
- are put to the vote only after they have been printed and distributed in all the official languages, unless Parliament decides otherwise.

Parliament may not decide otherwise if at least 32 MEPs object. In committee, oral amendments can be put to the vote unless one of the committee's members objects.

Even if your favourite amendments have been adopted by the plenary session, the Commission still gets to pronounce an opinion on them before the Council votes. Where the Commission announces that it is opposed to the Parliament's amendments, the rapporteur of the committee responsible – or, failing him, the chairman of that committee – proposes a formal decision on whether to suspend consideration of the item or whether the vote on the draft legislative resolution should proceed. Should Parliament decide to postpone the vote, the matter will be referred back to the committee for reconsideration. Within two months, the committee has to report back to Parliament either orally or in writing. Only amendments tabled by the committee responsible and seeking to reach a compromise with the Commission are admissible at this stage.

From there, the rapporteur and the chairperson of the committee responsible follow the procedure in the Council and the Commission to ensure that the

Parliament's amendments are respected. They can invite Council and Commission representatives to discuss the matter and can also table a motion for a resolution recommending that Parliament asks the Commission to either withdraw the proposal or present a new one or even refer the text back to the Parliament.

At the second reading, the committee responsible, a political group or at least 32 MEPs can table amendments to the Council's Common Position for consideration in Parliament – but only if the amendments are concerned with new text, take into consideration a new legal situation or new facts, seek to reach a compromise with the Council or to restore the text to the Parliament's position at the first reading.

Again, it is up to the President to decide whether or not to receive the amendments, and they are adopted only with a majority vote of the component MEPs (in other words a majority of all of them, not just of the votes cast). Before the vote, the rapporteur and the chairman usually discuss compromise amendments with the President of the Council and the Commissioner responsible. The vote to approve or reject the Council Common Position occurs in the plenary session within three to four months by a majority vote of the component MEPs

E Why and how to develop an EU policy

Policies are non-binding guidelines for EU institutions. Like EU legislative proposals, they are usually drafted by the Commission and adopted by the College of Commissioners before being sent to the Parliament and the Council. Most forest-related issues are dealt with in policy statements or communications.

See page 28 on EU forest legislation



The only forest-related 'legal' texts that exist at EU level are the Regulations underpinning aid programmes, including the Tropical Forest Regulation and the Forest Focus Regulation dealing with monitoring forests in Europe. We hope there will shortly be a Regulation on controlling imports of illegally sourced timber. All other forest-related issues are dealt with by non-binding policies and communications, as forests are the competence of the Member States.

1 The drafting process

See part D beginning on page 67



As for legislation, in order to obtain a particular policy you will want to influence the proposals, drafts and other non-legally binding documents that percolate through the EU machinery.

2 Approving a policy

The Council does not adopt the policy, communication or strategy as such but usually adopts a conclusion or a resolution stipulating what it wants the Commission to do. However, these conclusions or resolutions are not binding, and there are numerous instances in which the Commission has not implemented Council conclusions and the Council has failed to take action.

A **Council Resolution or Conclusion** is prepared by the Presidency and in theory by the EU representation (COREPER) of the country holding the presidency. They provide a first draft, which is sent to the other Council members for discussion before adoption in the Council. In most cases the

Resolution or Conclusion will be discussed at a Council working group, consisting of representatives of the Member States, which will give clear political guidance. The Commission is informed of the different drafts.

Council Resolutions or Conclusions. They set out jointly held views and intentions regarding the overall process of integration and specific tasks within and outside the Community. The primary significance of these resolutions is that they help to give the Council's future work a political direction. As manifestations of a commonly held political will, resolutions make it considerably easier to achieve a consensus in the Council. In addition, they guarantee at least a minimum degree of correlation between decision-making hierarchies in the Community and the Member States. Any assessment of their legal significance must take account of the fact that they are meant to remain a flexible tool and not be tied down by too many legal requirements and obligations.

Declarations. There are two different kinds of declaration. If a declaration is concerned with the further development of the Community, such as the Declaration on the EU, the Declaration on Democracy and the Declaration on Fundamental Rights and Freedom, it is more or less equivalent to a resolution. Declarations of this type are mainly used to reach a wide audience or a specific groups of addressees. The other type of declaration is issued in the context of the Council's decision-making process and sets out the views of all or individual Council members regarding the interpretation of the Council's decisions. Interpretive declarations of this kind are standard practice in the Council and are an essential means of finding compromises.



A Getting information

1 Regulation on Access to EU Institutions Documents

Article 255 of the EU Treaty⁸⁷ grants a right of access to European Parliament, Council and Commission documents to any citizen **from the Union or not**.⁸⁸ In the Regulation, the definition of a document is broad and no category of documents is automatically excluded from the right to access, including classified documents. However, the grounds for refusal of access to information are laid out as exceptions to the general rule in Article 4 of Regulation (EC) 1049/2001. They are unfortunately quite numerous and throw doubt on the institutions' desire for real transparency.

The Regulation sets a **time limit of 15 working days for replies to requests for documents**. Access to documents will be given according to your language preference, as available.

Documents that have been drawn up or received by the Commission after the effective date of the Regulation (December 3, 2001) are also available to the public. In this way, agendas of Commission meetings and minutes are given out on request.

2 Four ways to get documents

a By sending a request in writing/fax/email to the relevant institution

Your request should include the following information:

- Your name
- The address or fax or email to which they should send the requested information

⁸⁷ Implemented through Regulation 1049/2001 of 30 May 2001 and the detailed rules for its application.

⁸⁸ Pursuant to Article 2 (2) of Regulation (EC) No 1049/2001.

- As much information on the document requested as possible including: title, date, reference number, DG responsible
- Language requested, and if the document is only available in French or English, which one you would prefer.

Note that if the volume of documents requested exceeds 20 pages, you may be charged a fee of 10 euro-cents per page for photocopying plus postage costs.



Campaign Tips

Where to find or send requests for information

Parliament: <http://www.europarl.eu.int> or contact: The Secretariat, European Parliament, Rue Wiertz, B.P.1047, B-1047, Bruxelles, Belgium.
Tel: +32.2.284.21.11. Fax: +32.2.284.90.75.

Commission: http://europa.eu.int/comm/secretariat_general/sgc/acc_doc/index_en.htm or contact: Secretariat-General of the European Commission, Unit SG/C/2 'Europe and the Citizen 1', N-9, 2/11, rue de la Loi/Wetstraat 200, B-1049 Bruxelles, Belgium.

European Council: <http://register.consilium.eu.int/utfregister/frames/introfsEN.htm> or contact: The Secretary-General, Council of the European Union, 175 rue de la Loi, B-1048, Bruxelles, Belgium or email: access@consilium.eu.int

b By searching the institutions' public register of documents

Commission: http://europa.eu.int/comm/secretariat_general/sgc/acc_doc/index_en.htm

Parliament: <http://www4.europarl.eu.int/registre/recherche/Menu.cfm?langue=EN>

Council: <http://register.consilium.eu.int/utfregister/frames/introfsEN.htm>

c By searching the main website of the institution, Europa:

<http://europa.eu.int>

Many documents containing general information on the principal policies and activities of the European Union and the Commission can be accessed on

the Commission's Internet server called 'Europa'. The server also gives access to official documents such as legislative proposals, green papers, white papers, political communications, annual reports and work programmes.

From the Europa website, you can access several services with search capabilities:

- **Eur-Lex** – which gives access to all European Union's legislative instruments, including Commission proposals: <http://europa.eu.int/eur-lex/>
- **CELEX** – the database of community legislation, but it requires paying a subscription: <http://europa.eu.int/celex/>
- **Pre-lex** – containing inter-institutional procedures and enabling you to follow the major stages of the decision-making process between the Commission and the other institutions: <http://europa.eu.int/prelex/apcnet.cfm?CL=en>
- **OJ** – *Official Journal of the European Communities*, which contains legislative acts (L series), including the Treaties, and information and notices (C series): <http://europa.eu.int/eur-lex/en/oj/>

d By contacting EuropeDirect:

The Commission has also set up a specific unit, called EuropeDirect, to answer questions about finding information. It can be contacted by phone from any of the Member States by dialling the freephone number: 00 800 67 89 10 11. You should reach an operator that speaks one of the official EU languages. By email, write to: mail@europe-direct.cec.eu.int



Campaign Tips

For more details about access to Commission documents, see also *Access to European Commission Documents – A Citizen's Guide* at: http://europa.eu.int/comm/secretariat_general/sgc/acc_doc/index_en.htm

For more information on how to get information in Member States, see: http://europa.eu.int/comm/secretariat_general/sgc/acc_doc/index_en.htm#

3 Grounds for refusal

The grounds for refusal to access to information are laid out as exceptions to the general rule in Article 4 of Regulation (EC) 1049/2001. If only parts of the document are covered by these exceptions, the remaining part should be released. Non-disclosure may be limited in time depending on the relevance of the document.


The institutions may refuse access to documents where disclosure would undermine the protection of:

- The public interest as regards public security, defence and military matters, international relations and the financial, monetary or economic policy of the Community or a Member State or the privacy of an individual
- Commercial interests, including intellectual property, court proceedings and legal advice or the purpose of inspections, investigations and audits unless there is an overriding public interest in disclosure
- Documents that would seriously undermine the institution's decision-making process unless there is an overriding public interest in disclosure
- Documents developed by third parties who have not agreed to disclosure, such as a document originating in a Member State.

4 What to do about being refused information

If you are refused information, you may within 15 working days of receiving the institutions' reply make a confirmatory application asking the institution to reconsider its position. If, after another 15 working days, the institution still refuses to disclose the information, it will inform you of the possible remedies such as instituting court proceedings⁸⁹ and/or making a complaint to the Ombudsman.⁹⁰

See pages 89-90 for how to file a complaint to the Ombudsman



⁸⁹ Under the conditions laid out in article 230 of the Treaty

⁹⁰ Article 195 of the Treaty.

Citizens of non-EU countries who are not resident in the EU cannot file a complaint before the Ombudsman if they are refused information; however, they have the option of bringing an action before the Court of First Instance of the European Communities in accordance with Article 230 (4) of the Treaty.

5 Getting information through the Parliament

See pages 57-59 on Parliamentary Questions

6 Getting information from Member States

Member States and the Commission are party to the Aarhus Convention on Access to Information, Public Participation and Access to Justice in Environmental Matters in force since October 2001. To implement it, three Directives were adopted to implement each of the three pillars.⁹¹

The main instrument to align Community legislation with the provisions of the Aarhus Convention on public access to environmental information is Directive 2003/4/EC of 28 January 2003 which repeals Council Directive 90/313/EEC. The new Directive imposes some stricter obligations upon Member States, most notably as regards the active dissemination of environmental information by public authorities and extending the right of access to information from citizens of the EU to any person, regardless of residence. The Directive also obliges the Member States to provide for an administrative 'appeal', a procedure that has the advantage of being rapid and free of charge. In theory, it obliges Member States to have their legislation in place at the latest by 14 February 2005.

⁹¹ <http://europa.eu.int/comm/environment/aarhus/>

B Holding the EU accountable

1 The Commission and the Court of Justice

Once a law is passed, the Commission acts as 'guardian of the Treaties'. This means that the Commission, together with the Court of Justice, is responsible for making sure EU law is properly applied in all the Member States. If it finds that an EU country is not applying an EU law, and therefore not meeting its legal obligations, the Commission can take steps to correct the situation. If this procedure fails to put things right, the Commission can then refer the matter to the Court of Justice, which has the power to impose penalties. The Court's judgements are binding on the Member States and EU institutions. In most cases it takes a long time for the Commission to take action and for the Court to follow up if a Member State is in breach of EU law.

2 Supervising the executive

Generally, the Parliament exercises overall political supervision of the way in which the Union's policies are conducted. Since executive power in the Union is shared between the Commission and the Council of Ministers, their representatives appear regularly before the Parliament.

The Parliament has an important role every five years in appointing the President and members of the Commission. It exercises detailed scrutiny through a close examination of the many **monthly and annual reports**, which the Commission is obliged to submit to the Parliament. MEPs may also put **oral and written questions**⁹² to the Commission, and they regularly interrogate Commissioners at Question Time during plenary sessions and at meetings of the parliamentary committees. If the worst comes to the worst (which has occurred once), Parliament can pass a motion of censure on the Commission and force it to resign.

⁹² You can find the questions and the answers on the Parliament's website: http://www.europarl.eu.int/questions/default_en.htm

The President of the Council presents his or her programme at the beginning of a presidency and gives an account of it to Parliament at the end of that period. He or she also reports on the results of each European Council meeting and on progress in the development of foreign and security policy. Ministers attend plenary sessions and take part in Question Time and in important debates. They must also respond to written questions.

3 Defending the public interest

Finally, the Parliament exercises democratic control and acts as a defender of the public interest by examining petitions from citizens and appointing an Ombudsman.

a Petitions

Under the EP's Rules of Procedure (Rule 174), every citizen or resident of the European Community has 'the right to address individually or in association with other citizens or persons, a petition to the European Parliament on a matter which comes within the European Union's fields of activity and which affects him [or] her (...) directly'. The EC Treaty codified the right of European citizens to address petitions to the EP in its Article 194. The facility of petitioning offers citizens a means of entering into dialogue with the institution representing them and is, from Parliament's point of view, an indispensable link with the public; through it, Parliament is able to receive direct knowledge of citizens' needs and problems. The incorporation of this right in the EC constitutes 'official recognition of the effective means (...) for the European Parliament to verify the application of Community law in the Member States', however, citizens must demonstrate that the issue they raise directly affects them. A special committee within the Parliament is responsible for deciding the receivability of a petition and for examining it. It can write a report – which is rare – hold hearings and ask the Commission or a Member State to take action.

b The Ombudsman

The Treaty gives the European Parliament the right to appoint an Ombudsman empowered to receive complaints from any citizen of the Union or any natural or legal person residing in a Member State concerning 'instances of maladministration in the activities of the Community institutions or bodies' (Article 195 of the EU Treaty).

The Ombudsman's field of action excludes the possibility of his directly investigating the actions of the national authorities, even where they are responsible for implementing Community law. The Treaty specifies that the rules governing the performance of the Ombudsman's duties have to be laid down by the European Parliament after seeking an opinion from the Commission and with the approval of the Council acting by a qualified majority.

The Ombudsman is appointed after each election of the European Parliament for the duration of its term of office (five years). The current Ombudsman is Professor P. Nikiforos Diamandouros, former national ombudsman in Greece, who has been in post since 1 April 2003. It is possible that he will be replaced once the new Parliament has been elected in June 2004.

For more information about the European Ombudsman,
see: www.euro-ombudsman.eu.int

To file a complaint, see the form at: <http://www.euro-ombudsman.eu.int/form/en/form.htm>

To contact the Ombudsman: write to:
European Ombudsman,
1 avenue du Président Robert Schuman,
B.P. 403
F - 67001 Strasbourg Cedex
FRANCE
Phone: +33 (0) 3 88 17 23 13/ Fax: +33 (0) 3 88 17 90 62
Email: euro-ombudsman@europarl.eu.int

C Relevant Treaty Articles

The Treaties that are of relevance to forest campaigners:

- The **Treaty establishing the European Economic Community (EEC)**, which was signed in 1957 in Rome and came into force on 1 January 1958, otherwise known as the *Treaty of Rome*;
- The **Single European Act (SEA)**, entered into force on 1 July 1987, provided for the adaptations required for the achievement of the Internal Market and first mentioned environmental protection as a goal of the EC;
- The **Treaty on European Union (EU)**, or *Treaty of Maastricht*, which came into force in November 1993, added two new pillars besides that of the European Community: Justice and Home Affairs, and Foreign and Security Policy. It also greatly increased the powers of the Parliament and paved the way for the monetary union;
- The **Treaty of Amsterdam** entered into force on 1 May 1999: it amended and renumbered the EU and EC Treaties. The Treaty of Amsterdam incorporated the goals of sustainable development and the goal of poverty alleviation as a goal of the EU;
- The **Treaty of Nice** entered into force on 1 February 2003. The Treaty of Nice, the former Treaty of the EU and the Treaty of the EC have been merged into one consolidated version. The Nice Treaty further enhances the power of the Parliament and the power of the Commission in trade negotiations.

From the Treaty on European Union: (consolidated text)

Article 1 (1): This Treaty marks a new stage in the process of creating an ever-closer union among the peoples of Europe, in which decisions are taken as openly as possible and as closely as possible to the citizen.

Article 2: The Union shall set itself the following objectives:

- to promote economic and social progress and a high level of employment and to achieve balanced and sustainable development, in particular through the creation of an area without internal frontiers, through the strengthening of economic and social cohesion and through the establishment of economic and monetary union, ultimately including a single currency in accordance with the provisions of the Treaty;

Article 6(1): The Union is founded on the principles of liberty, democracy, respect for human rights and the fundamental freedoms, and the rule of law, principles which are common to the Member States

Article 6(2): The Union shall respect fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms signed in Rome on 4 November 1950 and as they result from the constitutional traditions common to the Member States, as general principles of Community law.

From the Treaty establishing the European Community: (consolidated text)

Article 3 (1): For the purpose set out in Article 2, the activities of the Community shall include, as provide in this Treaty and in accordance with the timetable set out therein:

- a The prohibition, as between Member States, of customs duties and quantitative restrictions on the import and export of goods, and of all other measures having equivalent effect;
- b a common commercial policy;
- c an internal market characterised by the abolition, as between Member States, of obstacles to the free movement of goods, persons, services and capital;

- d measures concerning the entry and movement of persons as provided for in Title IV;
- e a common policy in the sphere of agriculture and fisheries;
- f a common policy in the sphere of transport;
- g a system ensuring that competition in the internal market is not distorted;
- h the approximation of the laws of Member States to the extent required for the functioning of the common market;
- i the promotion of coordination between employment policies of the Member States with a view to enhancing their effectiveness by developing a coordinated strategy for employment;
- j a policy in the social sphere comprising a European Social Fund;
- k the strengthening of economic and social cohesion;
- l a policy in the sphere of the environment;
- m the strengthening of the competitiveness of Community industry
- n the promotion of research and technological development;
- o encouragement for the establishment and development of trans-European networks;
- p a contribution to the attainment of a high level of health protection;
- q a contribution to education and training of quality and to the flowering of the cultures of the Member States;
- r a policy in the sphere of the development cooperation;
- s the association of the overseas countries and territories in order to increase trade and promote jointly economic and social development;
- t a contribution to the strengthening of consumer protection;
- u measures in the spheres of energy, civil protection and tourism.

Article 6: Environment protection requirements must be integrated into the definition and implementation of the Community policies and activities referred to in the article 3, in particular with a view to promoting sustainable development.

Article 81 (1): The following shall be prohibited as incompatible with the common market: all agreements

between undertakings, decisions by associations of undertakings and concerted practices which may affect trade between Member States and which have as their object or effect the prevention, restriction or distortion of competition within the common market, and in particular those which:

- a directly or indirectly fix purchase or selling prices or any other trading conditions;
- b limit or control production, markets, technical development, or investment;
- c share markets or sources of supply;
- d apply dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage;
- e make the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature and according to commercial usage, have no connection with the subject of the contracts.

Article 81 (2): Any agreement or decision pursuant to this Article shall be automatically void.

Article 81 (3): The provision of paragraph 1 may, however, be declared inapplicable in the case of:

- any agreement or category of agreements between undertakings;
- any decision or category or decisions by associations of undertakings;
- any concerted practice or category of concerted practices, which contributes to improving the production of goods or to promoting technical or economic progress, while allowing consumers a fair share of the resulting benefit, and which does not:
 - a impose on the undertakings concerned restrictions which are not indispensable to the attainment of these objectives;
 - b afford such undertakings the possibility of eliminating competition in respect of a substantial part of the products in question.

Article 82: Any abuse by one or more undertakings of a dominant position within the common market or in a substantial part of it shall be prohibited as incompatible with the common market insofar as it may affect trade between Member States.

Such abuse may, in particular, consist in:

- a directly or indirectly imposing unfair purchase or selling to the prejudice of consumers;
- b limiting production, markets or technical development to the prejudice of consumers;
- c applying dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage;
- d making the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts.

Article 86 (1): In the case of public undertakings and undertakings to which Member States grant special or exclusive rights, Member States shall neither enact nor maintain in force any measure contrary to the rules contained in this Treaty, in particular to those rules provided for in Article 12 and Article 81 to 89

Article 86 (2): Undertakings entrusted with the operation of services of general economic interest or having the character of a revenue-producing monopoly shall be subject to the rules contained in this Treaty, in particular to the rules on competition, insofar as the application of such rules does not obstruct the performance, in law or in fact, of the particular tasks assigned to them. The development of trade must not be affected to such an extent as would be contrary to the interests of the Community.

Article 86 (3): The Commission shall ensure the application of the provisions of this Article and shall, where necessary, address appropriate Directives or decisions to Member States.

Article 87 (1): Save as otherwise provided in this Treaty, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, insofar as it affects trade between Member States, be incompatible with the common market.

Article 87 (2): The following shall be compatible with the

common market:

- a aid having a social character, granted to individual consumers, provided that such aid is granted without discrimination related to the origin of the products concerned;
- b aid to make good the damage caused by natural disasters or exceptional occurrences;
- c aid granted to the economy of certain areas of the Federal Republic of Germany affected by the division of Germany, insofar as such aid is required in order to compensate for the economic disadvantages caused by that division.

Article 87 (3): The following may be considered to be compatible with the common market:

- a aid to promote the economic development of areas where the standard of living is abnormally low or where there is serious underemployment;
- b aid to promote the execution of an important project of common European interest or to remedy a serious disturbance in the economy of a Member State;
- c aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest;
- d aid to promote culture and heritage conservation where such aid does not affect trading conditions and competition in the Community to an extent that is contrary to the common interest;
- e such other categories of aid as may be specified by decision of the Council acting by qualified majority on a proposal of the Commission.

Article 132 (1): Without prejudice to obligations undertaken by them within the framework of other international organisations, Member States shall progressively harmonise the systems whereby they grant aid for exports to third countries, to the extent necessary to ensure that competition between undertakings of the Community is not distorted.

Article 133 (1): The common commercial policy shall be based on uniform principles, particularly in regard to changes in tariff rates and trade agreements, the achievement of uniformity in measures of liberalisation, export policy and measures to protect trade such as those

to be taken in the event of dumping or subsidies.

Article 133 (3): Where agreements with one or more States or international organisations need to be negotiated, the Commission shall make recommendations to the Council, which shall authorise the Commission to open the necessary negotiations. The Council and the Commission shall be responsible for ensuring that the agreements negotiated are compatible with internal Community policies and rules.

Article 174 (1): Community policy on the environment shall contribute to pursuit of the following:

- preserving, protecting and improving the quality of the environment;
- protecting human health;
- prudent and rational utilisation of natural resources;
- promoting measures at the international level to deal with regional or worldwide environmental problems

Article 174 (2): Community policy on the environment shall aim at a high level of protection taking into account the diversity of situations in the various regions of the Community. It shall be based on the precautionary principle and on the principles that preventive action should be taken, that environmental damage should as a priority be rectified at source and that the polluter should pay.

In this context, harmonisation measures answering environmental protection requirements shall include, where appropriate, a safeguard clause allowing Member States to take provisional measures, for non-economic environmental reasons, subject to a Community inspection procedure.

Article 174 (3): In preparing its policy on the environment, the Community shall take account of:

- available scientific and technical data;
- environmental conditions in the various regions of the Community;
- the potential benefits and costs of action or lack of actions;
- the economic and social development of the Community as a whole and the balanced development of its regions.

Article 174 (4): Within their respective spheres of competence, the Community and the Member States shall cooperate with third countries and with the competent international organisations. The arrangements for Community cooperation may be the subject of agreements between the Community and the third parties concerned, which shall be negotiated and concluded in accordance with Article 300.

The previous subparagraph shall be without prejudice to Member States' competence to negotiate in international bodies and conclude international agreements.

Article 177 (1): Community policy in the sphere of development cooperation, which shall be complementary to the policies pursued by the Member States, shall foster:

- the sustainable economic and social development of the developing countries, and more particularly the most disadvantaged among them;

- the smooth and gradual integration of the developing countries into the world economy;
- the campaign against poverty in the developing countries

Article 177 (2): Community policy in this area shall contribute to the general objective of developing and consolidating democracy and the rule of law, and to that of respecting human rights and fundamental freedoms.

Article 177 (3): The Community and Member States shall comply with the commitments and take account of the objectives they have approved in the context of the United Nations and other competent international organisations.

Article 179 (1): Without prejudice to the other provisions of this Treaty, the Council, acting in accordance with the procedure referred to in Article 251, shall adopt the measures necessary to further the objectives referred to in Article 177. Such measures may take the form of multi-annual programmes.

Article 179 (2): The European Investment Bank shall contribute, under the terms laid down in its Statute, to the implementation of the measures referred to in paragraph 1

Article 180 (1): The Community and the Member States shall coordinate their policies on development cooperation and shall consult each other on their aid programmes, including in international organisations and during international conferences. They may undertake joint actions. Member States shall contribute if necessary to the implementation of Community aid programmes.

Article 180 (2): The Commission may take any useful initiative to promote the coordination referred to in paragraph 1.

Article 192 (2): The Parliament may, acting by a majority of its Members, request the Commission to submit any appropriate proposal on matters on which it considers that a Community act is required for the purpose of implementing this Treaty.

Article 266 (1): The European Investment Bank shall have a legal personality

The members of the European Investment Bank shall be the Member States

The Statute of the European Investment Bank is laid down in a Protocol annexed to this Treaty. The Council, acting unanimously, at the request of the European Investment Bank and after consulting the European Parliament and the European Investment Bank, may amend Articles 4, 11 and 12 and Article 18(5) of the Statutes of the Bank.

Article 267: The task of the European Investment Bank shall be to contribute, by having recourse to the capital market and utilising its own resources, to the balanced and steady development of the common market in the interest of the Community. For this purpose the Bank shall, operating on a non-profit-making basis, grant loans and give guarantees which facilitate the financing of the following projects in all sectors of the economy:

- a projects for developing less-developed regions;
- b projects for modernising or converting undertakings or for developing fresh activities called for by the progressive establishment of the common market, where these projects are of such a size or nature that they cannot be entirely financed by the various means available in the individual Member States;
- c projects of common interest to several Member States

which are of such a size or nature that they cannot be entirely financed by the various means available in the individual Member States;

In carrying out its task, the Bank shall facilitate the financing of investment programmes in conjunction with assistance from Structural Funds and other Community financial instruments.

Article 300 (1): Where this Treaty provides for the conclusion of agreements between the Community and one or more States or international organisations, the Commission shall make recommendations to the Council, which shall authorise the Commission to open the necessary negotiations. The Commission shall conduct these negotiations in consultation with the special committees appointed by the Council to assist it in this task and within the framework of such Directives as the Council may issue to it.



D Other useful reading

European Parliament: Directorate-General for Research, The Powers of the European Parliament in the European Union, Political Series E-1 (Luxembourg, European Parliament, 1993)

In Serving the European Union. A citizen's guide... 2nd ed. (Luxembourg, OPOCE, 1999)

European Commission: Directorate-General for Press and Communication, How the European Union works – A citizen's guide to the EU institutions (Manuscript completed in March 2003)

Access to European Commission Documents – A Citizen's Guide

Dr. Klaus-Dieter Borchardt, The ABC of Community Law, 5th Edn (European Communities, 2000)

Timothy Bainbridge and Anthony Teasdale, The Penguin Companion to European Union, ISBN 0-14-016510-X

Olivier Costa, Le Parlement Européen, assemblée délibérante, (Editions de l'Université de Bruxelles, 2001)

European Parliament factsheets:

http://www.europarl.eu.int/factsheets/default_en.htm

Official EU Glossary: <http://europa.eu.int/scadplus/leg/en/cig/g4000e.htm#e8a>

Relevant FERN briefing notes: www.fern.org