exemption is being considered to speed up the construction of this road in a simpler and cheaper way. This plan could pose a direct threat to the survival of species such as the bluethroat, kingfisher, honey buzzard, moor frog and floating water plantain.

Is it true that the Netherlands is also investigating to what extent an exemption under the Nature conservation law would permit the destruction of the habitats of red-listed species to be found on the eastern section?

To what extent is the construction of this road in breach of the European Habitats Directive?

Answer given by Mrs Wallström on behalf of the Commission

(5 October 2001)

The Commission is currently investigating the facts raised by the Honourable Member as a result of a complaint, which questions the compatibility of the proposed A73 motorway on the East bank of the river Meuse between Roermond and Venlo and the Habitats Directive, Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (1).


On 9 July 2001, a delegation of officials from several Dutch institutions and administrations involved in the A73 project visited the General Directorate Environment to brief Commission officials on the actual state of the project with regard to its effects on the nature interests concerned and on the proposed mitigation and compensation measures. From this exchange, the Commission has learned that the decision on the actual location was taken on the basis of a debate in Parliament in 1995 and that, since then, a number of studies on the impacts of the A73 project on the area’s nature interest have been carried out by well-known environmental consultancies.

The Commission will pursue this complaint case by asking the Dutch Government to give a formal reply to a series of questions regarding the likely effects of the A73 project on the state of conservation of the species and habitats listed in the two Community Nature Protection Directives referred to above and by requesting details of compensation measures envisaged.


WRITTEN QUESTION E-2245/01

by Erik Meijer (GUE/NGL) to the Commission

(26 July 2001)

Subject: Continuing threat to the environment and public health in the French village of Bourg Fidèle posed by the processing of Dutch lead waste

1. Is the Commission aware that large quantities of Dutch lead batteries are still being shipped to the firm Metal Blanc in the French village of Bourg Fidèle in the Department of the Ardennes, that the lead is being melted down in an open system, that the staff still have to work with face masks both inside and outside the factory, that lead emissions are continuing into the outside atmosphere and that the ban imposed in 1997 on the consumption of vegetables from gardens around the plant is still in force?
2. Does the Commission recall that in its answer to my Written Question E-2565/99 (1) it stated that:

(a) France had not enabled the Commission to ensure its mission of guardian of Community law, that it had therefore addressed to France, pursuant to Article 226 of the EC Treaty (procedure for failure to fulfil an obligation) a letter of formal notice for violation of Article 10 of the EC Treaty and that the French authorities had replied that the infringements established had recently lead the authorities to take strict measures;

(b) that it is primarily up to the authority of destination to check whether the information required by Articles 6 to 9 of Regulation (EEC) No 259/93 (2) on the supervision and control of shipments of waste within, into and out of the Community and made available to all authorities involved in the state of dispatch, destination and transit, with regard to the identity of the consignee of the waste, the location of the recovery centre and the type and duration of the authorisation under which the centre operates is correct and, if not, to object to the shipment within 30 days pursuant to Article 7(4).

(c) that it is of the opinion that the current procedures ensure sufficient supervision and control of waste shipments for recovery within the Community and do not provide an incentive for economic operators to evade usual national government controls in that if only one of the authorities raises an objection a shipment may not take place and any objection raised has to be notified to all authorities involved?

3. What measures is the Commission taking to protect France against the continuing imports of lead waste?

4. Is the Commission encouraging the Member States to process lead waste as close as possible to where the lead is produced in order to avoid lengthy transportation and situations that are difficult to monitor?

5. In the present circumstances, does the Commission still consider that the current rules are adequate? If so, why? If not, what improvements is it working on?


**Answer given by Mrs Wallström on behalf of the Commission**

(4 October 2001)

As regards the installation ‘Metal Blanc’ the Commission can only confirm what has already been indicated in the Commission’s reply to the Honourable Member’s Written Question E-2565/99 — namely that the Commission was informed by a complaint of certain facts concerning the installation ‘Metal Blanc’ (1).

A letter of request for information was sent to the French Government. In the absence of an answer after more than eight months, the Commission addressed to this Member State, pursuant to Article 226 (ex-Article 169) of the EC Treaty (procedure for state failure to fulfil an obligation), a letter of formal notice for violation of Article 10 (ex-Article 5) of the EC Treaty (2).

In response to the letter of formal notice, the French Government provided information and comments, underlining in particular that the infringements established had recently led the competent authorities to take strict measures and that the local judicial court was continuing the instruction of the case. Complainants were informed of this answer.

The Commission continues to investigate the case to determine if the installation operates in conformity with the Waste Framework Directive, Council Directive 75/442/EEC of 15 July 1975 on waste (3) and whether the measures to restore the site have been applied correctly. A second request for information has been sent to the French authorities on 7 May 2001.

As regards the issue of shipments of waste the following comments are relevant:

– All waste — including when shipped — is i.a. subject to all the provisions of the Waste Framework Directive. This means that waste may only be shipped to facilities authorised by the competent authority designated by the importing Member State according to Articles 9, 10 and 11 of that Directive. In addition, it is important to note that Member States must ensure that waste management
operators fulfil the requirements under Article 4 of the Directive in relation to safeguarding environmental protection and human health and arrange periodic inspections under Article 13 to ensure that this is the case. Furthermore, Member States must also ensure that such operators do not mix different categories of hazardous waste as prescribed by Article 2(2) of Council Directive 91/689/EEC of 12 December 1991 on hazardous waste (4).

– It follows from the Shipment Regulation, Council Regulation (EEC) No 259/93 of 1 February 1993 on the supervision and control of shipments of waste within, into and out of the Community, that a shipment may only be effected if, within a period of 30 days after acknowledgement of receipt of notification of shipment, none of the competent authorities involved have raised objections on any of the grounds specified in Article 7(4)(a) of the Regulation. According to the fifth indent of Article 7(4)(a), the countries of destination and dispatch may object to a waste shipment which is destined for ‘sham-recovery’. Specifically, this means that either countries may refuse to permit shipment if they consider that the ratio of recoverable and non-recoverable waste, the estimated value of the materials to be recovered or the costs of recovery or disposal of the non-recoverable fraction do not justify the recovery under economic and environmental considerations.

– It is primarily up to the authority of destination to check whether the information provided by the notifier regarding the intended recovery operation is correct, and if this is not the case, to object to the shipment.

The Commission is therefore of the opinion that, in this instance, the Shipment Regulation and the Waste Framework Directive provide a sufficient legal framework to enable the competent authorities to ensure that appropriate environmental protection steps are to be taken in respect of the shipment involved.

According to the Court of Justice’s ruling in the ‘Dusseldorp’ case C-203/96 the principles of proximity and self-sufficiency as laid down in the Shipment Regulation and the Waste Framework Directive may not apply in respect of shipments of waste destined for recovery operations.

It follows from the above description that the Commission is of the opinion that the procedures laid down in the Shipment Regulation ensure sufficient supervision and control of waste shipments for recovery within the Community.

(1) The complaint is recorded under the number 98/4317.

(2002/C 81 E/165) WRITTEN QUESTION E-2247/01
by José Ribeiro e Castro (UEN) to the Council

(26 July 2001)

Subject: Status of Hong Kong

Press reports indicate that the Hong Kong Administration may be about to adopt a law empowering the Government of the People’s Republic of China to dismiss the territory’s leader, which would mean that Hong Kong risks losing its statutory autonomy and flies in the face of the undertakings given at the time of the changeover only a few years ago.

These developments apparently come in the wake of negotiations between the Beijing Government and the Hong Kong authorities, and according to the press, are causing great concern and have lead to widespread protests. The new law is scheduled for next Wednesday, 18 July.