

**To: European Commission**

**From: ClientEarth**

**Date: March 2017**

**Subject: ClientEarth's comments on the Commission's Roadmap for an Action Plan to tackle better implementation of the Nature Directives**

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## **What better implementation is seeking to achieve**

We welcome the publication of this Roadmap, signalling the Commission's commitment to tackling better implementation of the Nature Directives.

As an overall comment, we think that a draft Action Plan should be reframed to place more focus on the Directives' conservation objectives of increasing biodiversity and protecting European habitats and species that are at risk. This Roadmap seems to focus more on economic objectives, stating that better implementation of the Nature Directives is needed because "Not achieving the Directives' objectives entails the continued depletion of our natural capital and further erodes valuable ecosystem services with major consequences for our economy" and "Moreover, we miss the opportunity to capitalize on nature's full potential to deliver growth and jobs, and improve citizens' health and quality of life" ('Context', p.1). Also on page one, the Roadmap states that "The shortcomings in implementation have negative consequences for safeguarding ecosystems and the services they deliver to people and the economy" – and this is repeated at the top of page two.

References to halting biodiversity loss and the need to comply with international commitments regarding biodiversity on the other hand, are referred to much further down the document, towards the end of the section at the top of page two.

We also have some concerns about the statement that the initiative "will aim to improve implementation of the Habitats and Birds Directives and their coherence with socio-economic objectives, including by ensuring better integration with other EU policy areas, in order to reap their full potential for green growth and jobs". The aim of better implementation should be to meet the Directives' conservation objectives – the "in order to" in this sentence therefore jars somewhat, as it suggests that the principal reason for better implementation is to create green growth and jobs.

We agree that the Directives need to be better integrated with other EU policy areas – however, it is equally important that the Commission considers how these other policy areas also need to be reviewed and made more coherent with environmental objectives – for example the CAP, which has an enormous impact on the aims of the Directives. The policy of 'sustainable development' means the integration of environmental, social and economic objectives together. This being the case, socio-economic considerations must be taken into account when achieving environmental objectives where appropriate – but equally, environmental considerations must be taken into consideration in attempts to meet social and economic objectives. It is crucial that

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other areas of law and policy are also made more coherent with environmental objectives. We would also point out that certain aspects of the Habitats and Birds Directives give priority to environmental considerations and are independent of socio-economic factors – for example, the test in Article 6(3), which provides that a plan or project may not proceed unless it will not adversely affect the integrity of a Natura 2000 site.

Similarly, while we are pleased that the Commission recognises that halting biodiversity loss must be tackled at an international level, because nature knows no geographic boundaries, we are concerned by the reason stated for this – that “EU-level action is therefore instrumental...for smart sustainable use of EU natural capital and for reaping its full potential for green growth and jobs”.

We don't disagree that nature can provide many economic benefits – and we support work to quantify and showcase this. However, the Directives' conservation objectives should be enough reason to act in themselves – and this should be the clear focus of the Action Plan, once produced. It is crucial that the Commission makes clear that Member States' obligations to properly implement the Nature Directives are not dependent on economic rationales.

### **The Roadmap's assessment of key challenges to better implementation**

We agree with the bullet-list of broad issues highlighted on p.1 under 'Problem the initiative aims to tackle' and the 'key challenges' listed at the top of p.2. We also agree with the bullet-list of actions that the Commission will need to look at set out on p.2 under 'What the initiative aims to achieve and how' – although we don't see the relevance of referring to “harnessing the full potential of healthy ecosystems” in this context. However, probably due to the nature and format of the Roadmap, these broad areas for action are currently very high-level. We therefore look forward to seeing these issues fleshed out in more detail, together with concrete ways in which these goals can be achieved, in a draft Action Plan.

The Roadmap does refer to issues with “management and protection of Natura 2000 sites”, but the following key issue is not currently clearly enunciated by the Roadmap and should be addressed in some detail by the Action Plan: Failure by Member States to understand and properly implement the requirements of Article 6(2) and 6(3) of the Habitats Directive, in relation to Natura 2000 sites.

The Commission will also need to make a firm commitment in the Action Plan (not currently contained in the Roadmap, which we appreciate is a high-level document) to tackling the barriers to implementation identifies by it, both in terms of taking actions and providing funds.

### **Next steps and public participation**

The Roadmap does not set out a clear timetable for drawing up the Action Plan and inviting the public to consult on it. We would welcome the publication of this information by the Commission. Given its pivotal importance to ensuring that European wildlife is protected, it is incredibly important that the public is able to have its say on the Plan's contents and we invite the Commission to commit to a transparent process that also ensures effective public participation.