ORGALIME POSITION PAPER ON

Eco Design of Energy Using Products:

A Methodology Study, 1st Draft Final Report

Brussels, 21 October 2005

Orgalime thanks the Commission for consulting us on the draft final report regarding the study on the development of an Eco Design of Energy Using Products Methodology, on which Orgalime is pleased to comment.

The stated aim of the study is *"to contribute to the creation of a methodology allowing to evaluate whether and to which extent various energy using products fulfil certain criteria that make them eligible for implementing measures under the Eco Design of EuP Directive 2005/32/EC; these criteria are specified in article 12 of the directive*"[1].

In principle, Orgalime supports the development of such a methodology and appreciates the efforts taken by the Commission and the contractor on the above-mentioned study, VHK. Orgalime considers the development of a methodology as generally appropriate. If properly put into practice, it would provide a general indication on the focus of possible future priorities of regulators. It would also foster the application of eco design, based on multiple criteria and on the different phases of the life of a product. This is a holistic approach, which we support.

We acknowledge the following clarifications that have been provided by the Commission and VHK at the stakeholder meeting of 3 October 2005 and fully support them:

- The methodology would be intended to serve as a common basis. It would however, not be set as the Commission points out "for eternity". It would rather remain an open and flexible methodology allowing, where necessary, for its adaptation to the specifities of a studied product sector, while at the same time ensuring a consistent approach.
- The worksheet of the EcoReport should be an instrument to help the Commission, consultants and experts to make calculations. It would however not be mandatory for each individual company to use the EcoReport.
- It would not be the purpose of the methodology study to establish full LCA as the norm.
- Regarding the identification of potential for improvement, it would be up to the Commission, in full consultation with the Consultation Forum, to decide what constitutes "significant" factors, as listed in article 15 of the EuP directive.

[1] See draft final report, page 7, 1.1. Please note that the criteria are established in article 15 rather than article 12 of Directive 2005/32/EC.

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- The development of the methodology must be clearly distinguished from the relevance and conclusions drawn on the basis of the product cases that have been studied by VHK. These studied product cases are used for illustrative purposes only. They are based on partial data and assumptions and can therefore not be considered as the basis for next steps under the EuP directive, and for legislative action affecting the sectors covered in those examples in particular. Such action would require a separate impact assessment in line with the provisions of the EUP directive that would fully ensure the representativity and recognition of possible particularities of the sector involved.

Nevertheless, we believe that in order to enable the effective and correct use of the EuP methodology, a number of essential improvements are necessary since the present draft final report includes significant uncertainties. In some areas, the present draft final report also seems to predict certain steps and to go beyond its stated aim. These aspects become particularly evident in the following areas:

- Orgalime is highly concerned about the uncertainties linked with the identification of the best available technology (BAT). Given the conclusions drawn on the product cases developed by VHK, it is clear to us that the methodology does not provide sufficient guidance as to how to best identify BAT. It is in our view completely inappropriate for a methodology study to provide opinions on BATs, which do not take into account either the speed at which technology is moving, nor other important aspects of products, such as the functionality or safety.
- Some data would indeed require substantial updating in order to ensure that the methodology study is based on strong, robust and justified figures. In particular, the product specific results and conclusions in the draft final report -especially if they were to be taken into account by future contractors for sectoral studies- would require an update with the full involvement of the relevant sectors.
- Regarding the listed environmental categories, we believe that these should concentrate on scientifically based impacts. In this context, the aspect of raw material depletion should be discussed. Besides, recycling is not completely covered and the aspects of abiotic depletion or land use should be considered.
- In our view, certain environmental impact categories listed in the draft final report are not commonly recognised as scientifically based (i.e.: aquatic toxicity or toxicity to air). Also, the expressed view on waste recycling procedures is incomplete (e.g.: thermal treatment procedures are another alternative). Following the Commission's statement that these categories would be used by consultants in the next studies, Orgalime advocates for a standardisation project where such data should be based on the scientific state of the art and show who the owner of the data should be. Such a process would ensure the involvement of international experts and stakeholder groups, yielding in our opinion, a widely acceptable result.
- Concerning the other elements of the methodology, Orgalime would like to underline the role of policy authorities in setting priorities between (scientifically based) environmental impacts: following the life cycle thinking approach established in the EuP directive, it is necessary to maintain and base such political decisions on a wide environmental assessment, so as to establish an adequate compromise that would provide the most benefit to the environment from a life cycle perspective. Therefore, it is of utmost importance that the methodology does not judge what environment impacts are most significant, but should just show the results of the calculations.

- In line with the previous comment, the statement on the "Dominance of environmental impact in the use phase" is a general political judgement, which one would not expect to be included in a methodology. Moreover, it does not explicitly refer to the precise product and environmental impact categories considered. It could in our view unduly pave the way for general conclusions, which would be valid for a number of products or environmental impact categories.
- Except for potential specific eco-design requirements on energy, according to annex II of directive 2005/32/EC, the directive does not provide that political decisions have to be made on the basis of ranking potential improvement options according to the Life Cycle Cost and the identification of the Least Life Cycle Cost (LLCC). This differs considerably from the notion of "not entailing excessive costs" included in Article 15. To ensure coherence and consistency with the environmental impact assessment, any tentative ranking must be performed according to the results of the environmental impact assessment. If energy has been identified as the priority aspect, LCC will probably be the most appropriate ranking option for certain EuP. This however, must not necessarily be the case for EuP where aspects other than energy have been identified as relevant.
- The draft final report also discusses the concept of functionality of the product (e.g. output of printed pages) versus specific technology (e.g. output of printed pages per throughput technology; e.g. p. 78, 1st paragraph). This is in our view a problematic concept. Taking decisions based on this, could lead to discrimination against specific technologies for reasons, which may not be valid. This could pose problems of legal recourse.
- For the use phase, the VHK calculation sheet provides for input values like "On-mode: Consumption per hour, cycle, setting, etc." or "Standby-mode: Consumption per hour" (see lines 244-251 on the INPUTS page). This may be adequate for products such as consumer electronics, which have the "purpose" to operate for a certain period of time in the "on mode" or in the "standby mode" and consume a defined quantity of energy per hour in these operation modes. We question, however, how adequate such an approach is, in particular for professional equipment, whose purpose is not to operate for a certain period of time, but to produce a certain quantity of output during a production run. We wonder how the methodology will accommodate such differences.
- Orgalime regrets that the draft final report does not take into account evaluation methods of impact already used by the industry (e.g.: EIME).
- Generally, we encourage VHK to deliver more detailed documentation on the data basis and the system boundaries since for an efficient use of the EcoReport tool the present documentation seems insufficient. Such background information would also be necessary to properly monitor potential changes that occur over time.
- While the draft final report states that the studied product cases are considered as purely illustrative (p. 12, 1.3, App. 1), we regret that the reliability of the technical assumptions on which such case studies are based may be considered questionable. This is particularly important as comments and preliminary conclusions drawn in the report could be misleading due to significant errors and assumptions or confusion. The consequences may be serious in the context of preparatory studies of possible future implementing measures on a potentially targeted sector. Orgalime therefore re-emphasises that the results of these product cases should not be used as a basis for the next steps under the EUP directive, and any legislative action affecting the whole product sector in particular.

Finally, Orgalime is seriously concerned about the Commission's statement during the stakeholder meeting that all activities ongoing in the various Commission services are fully compatible with the work on the EuP and the methodology study in particular. The Commission has especially claimed such complementarity for the activities on IPP, such as the EIPRO study, the creation of a life cycle inventory database by the JRC and the IPP pilot project on mobile phones. Orgalime rejects this, since these activities neither follow the spirit nor letter of the recently adopted EuP framework directive. If the EuP directive is cited publicly by the Commission as a model of Better Regulation, then we believe that all regulatory activity in this field must fully follow the principles and requirements set out in the directive in order to be both relevant and coherent.

Speaking for European engineering, Orgalime represents 3 industrial branches (metalworking, mechanical engineering and electrical engineering) that manufacture over 27% of total EU manufacturing output (initial estimates set the industry's output at 1235 billion euro in 2004) and has 35 member trade federations in 24 European countries. The industry not only represents more than one quarter of the output but also a third of the exports of the EU's manufacturing industries.