

Brussels, 16 September 2008

## Action Plan Sustainable Consumption and Production & Sustainable Industrial Policy (COM (2008)397/3)

On 16 July 2008, the European Commission has proposed a Sustainability Package comprising of the following initiatives:

1. Action Plan Sustainable Consumption and Production and Sustainable Industrial Policy
2. Proposal for an amendment of the Eco Design Directive 2005/32/EC
3. Proposal for a revised Eco Label Regulation 1980/2000
4. Proposal for a revised EMAS Regulation 761/2001
5. Communication Green Public Procurement

The Commission has announced that the package will be completed by further policy proposals later this year, and a revised energy labelling directive and a regulation on environment technology verification more particularly.

### 1. Communication on the Action Plan SCP/SIP

Orgalime generally supports the step towards promoting sustainable industrial policy and more sustainable consumption and production patterns in the EU. In our view, a policy of sustainable consumption and production and sustainable industrial policy needs to respect a number of fundamental principles in order for it to result in a win-win situation for the environment, the consumer and the industry alike.

Such **fundamental principles**, in our view, include the following:

- Sustainability should not be taken as environmental sustainability only, but should include on an equal footing environmental, social and economic sustainability.
- Cost efficiency should be the guiding principle for identifying actions to promote sustainable industrial policy and sustainable consumption and production patterns.
- Cost benefit analysis and impact assessment preceding a particular measure should, in our view, be coupled with an analysis of the capacity of the economy as a whole, as well as the capacity of companies to bear additional costs, without having to relocate their production outside Europe.
- Evaluation and any action, especially on product labelling, should be based upon scientific evidence.
- An integrated approach is necessary that takes on board all relevant parties, stakeholders and actors in the supply chain in a transparent process.
- Future actions should at the same time safeguard the benefit that the internal market offers for the consumer, namely that of allowing him/her to enjoy a broad variety of different products with different technologies at competitive prices.
- Only a coherent and consistent policy without overlapping legislative requirements or too much bureaucratic and administrative burden can be the basis for a positive legislative framework for investment in the EU.
- A level playing field of fair competition and proper enforcement of existing legislation are prerequisites for stimulating the industry to constantly improve its sustainability and for turning challenges into opportunities and generating societal welfare.

*Orgalime, the European Engineering Industries Association, speaks for 35 trade federations representing some 130,000 companies in the mechanical, electrical, electronic, metalworking & metal articles industries of 23 European countries. The industry employs some 10.9 million people in the EU and in 2007 accounted for some €1,813 billion of annual output. The industry not only represents more than one quarter of the output of manufactured products but also a third of the manufactured exports of the European Union.*

In the framework of the **ELECTRA High Level Experts Group**, our industry has, in cooperation with the European Commission and other stakeholders, developed a series of recommendations for realising the EU's 20/2020 energy and climate change targets, which, if implemented render these targets achievable. Our industries are ready to contribute to the shift towards a sustainable industrial, consumption and production policy, especially in the field of product policy by designing, manufacturing and providing sustainable and innovative products and technology solutions to address the challenge of climate change and energy efficiency.

Orgalime represents the industry that is today subject to the **Eco Design of Energy Using Products Directive**. We agree that in certain areas minimum product requirements can help to foster a level playing field and are therefore committed to the implementation of the directive. However, a wide variety of highly performing sustainable products for the consumer to enjoy are available on the market today and can already help to achieve the EU's ambitious 20/2020 energy objectives<sup>1</sup>. Therefore, IF the action plan is about moving towards a low carbon economy and IF the Eco Design Directive is to deliver, which is not yet proven, the Action Plan has to be about more than an extension of the scope of the Eco Design Directive or product labelling. The proposed amendment of the scope of the existing Eco Design Directive must not upset the implementation of the existing directive for energy using products, which is an ongoing process for 20 product groups and soon further 11 product groups of our industry sector.

In our view, the action plan should focus on fully **realising the potential that increased awareness among consumers, whether private, public or professional, indeed translates into a more sustainable investment and consumption behaviour**. At the same time, it would be essential to avoid the situation where only wealthier consumers can afford better performing products. Consumers need to be attracted to invest in innovative products, as otherwise the efficiency gains, in which industry has invested heavily, will go to waste and harm its competitiveness.

We support the action plan's proposal to establish a **minimum harmonised base for incentives**, for the industry as well as individual citizens, since this may contribute to accelerating the penetration of sustainable products in the market and the transformation of the market towards more sustainable products. It is vital that such criteria for incentives are consistent with the implementation process under the Eco Design Directive.

Orgalime also welcomes the Commission's initiative aiming at establishing a **minimum harmonised base for public procurement rules**. However, we believe that the reference points for incentives and GPP need to be sufficiently wide to guarantee the possibility of reaching the critical mass necessary for changing current energy consumption levels. Such criteria for public procurement rules should also be in line with the implementation process under the Eco Design Directive.

As mentioned before, the action plan should in our view also be more than about **product labelling**. Orgalime agrees that **spreading information on the performance of products** can help transparency and influence consumption and consumer behaviour. However, environmental product information can take different forms, labelling being only one of the tools that are available today. Such other environment information tools would, for example, include ISO type II and III information (i.e.: environmental claims and product declarations), or information provided on websites, leaflets, brochures etc. All these environmental information tools should continue being relevant for the future.

**The use of labels in our view only fits for consumer products.** In the area of business-to-business relationships, however, labelling should not be imposed. Labelling requirements on components could easily result in forcing the manufacturer of finished goods to use certain components only, which could be suboptimal for the product's global design in terms of innovation. Such an approach could then be detrimental to the innovation capacities and competitiveness of such manufacturers. Instead, it should remain the responsibility of the manufacturer of the finished good, to ensure that his product as a whole fulfils any product requirement, including possible eco design requirements adopted under the Eco Design Directive.

**Also, labelling can only be successful if it is simple, concise, and easy to understand for the consumer.** The action plan, which in its present form results in a parallel application of the eco label, the

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<sup>1</sup> See ELECTRA High Level Experts Group Report, available at [http://ec.europa.eu/enterprise/electr\\_equipment/electra.htm](http://ec.europa.eu/enterprise/electr_equipment/electra.htm).

energy label, a possible eco design label as well as the CE mark (for products that are regulated under the Eco Design Directive) risks, in our view, increasing confusion of consumers instead of helping transparency or improving consistency in product labelling. In this context, due to its complexity and cost as well as the risk of causing further confusion, Orgalime believes that carbon footprint labelling cannot be used for all products. We are particularly worried about the feasibility of using carbon footprint labelling on the products that we manufacture.

As far as the possible development of an “**eco design label**” is concerned, Orgalime would not consider it appropriate to establish such a label if it were aimed at providing one value encompassing all relevant environmental aspects of that product group, rather than a set of distinct figures corresponding to different aspects or impacts.

**In our view, the current energy label already has the capacity to function as an eco design label**, since it provides the basis for already including information on parameters other than energy consumption (e.g.: the current “energy label” for washing machines includes information on energy consumption, water consumption, noise, washing performance and spin drying performance; or the current “energy label” for dishwashers provides information on energy consumption, water consumption, noise, performance of drying and performance of cleaning).

An alignment of the scopes of the existing Energy Labelling Directive and the existing Eco Design Directive could be generally supported by Orgalime. While we do not support the proposed horizontal extension and immediate application of any labelling scheme on additional product groups, be it consumer products or professional goods, we propose that the appropriateness of the tool for a certain product category should be assessed in the context, and if judged appropriate, included in the respective Eco Design implementing measure for that product group after consultation of the affected industry sector. The necessity to include further information parameters than energy under the labelling of a product group under discussion should be equally assessed under the Eco Design framework, and if considered appropriate, implementing measures under the two framework directives should maintain an overall coherence so as to avoid any conflicting requirements for manufacturers. Such an approach would increase the consistency between the different relevant pieces of EU legislation, explore their synergies and provide a coherent environmental information system where assessed necessary. At the same time it would help the consumer to base his buying decision on reliable and harmonised information.

As far as the **EU Eco Label** is concerned, it should continue to remain one tool in the toolbox for spreading environmental information and it should keep its voluntary character. However, for product groups, for which a mandatory labelling requirement exists that also encompasses benchmarks (e.g.: energy label for household appliances), the Eco Label can be expected to be redundant for those parameters covered by both schemes.

**Retailers** have a strong position to influence more sustainable consumption; however, there is a serious risk of creating dominant positions for retailers and distributors in the market place. We believe that any action towards smarter consumption should respect the sovereign right of the consumer to choose the product that best fits his/her needs. The role of retailers and distributors should be to provide information to the customer, so that his buying decision is based upon solid information. In a free market economy, the buying decision, however, should remain with the customer.

Orgalime regrets that to date producers have been involved in the discussions that the Commission held with retailers. We believe that only joint action throughout the supply chain can deliver results and therefore support the recent step towards the possibility for producers and consumers to participate in the “Retail Forum” on an equal basis. We request that producers and other relevant stakeholders should be granted at least as many seats as representatives of retailers in this Forum.

**Leaner production** is a day to day objective in Orgalime industries considering the highly competitive environment of our industrial sector: While Orgalime industries are continuously optimising raw material (resource) input for manufacturing, which in times of increasing raw material prices is an economic must, we do not believe that the EU should establish a resource efficiency target. The manufacturer requires sufficient flexibility to organise its raw material input and a broad portfolio of potential resources to remain innovative. Also, such a target risks putting a break on economic growth, which would be opposite to a main objective of the action plan, namely to create opportunities, growth and jobs.

Orgalime particularly opposes the proposal for a general “**technology verification scheme**”, which goes further than benchmarking technologies on the market.

Global challenges, such as climate change, require global solutions. Orgalime therefore underlines the importance of fostering **international commitments** to act.

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These general remarks translate into the following Orgalime comments on the individual proposals accompanying the Action Plan SCP/SIP:

## 1. Proposal for an amendment of the Eco Design Directive 2005/32/EC

A coherent product policy requires the right mix of policy instruments, voluntary and legislative.

For Orgalime industries, Directive 2005/32/EC on Eco Design of Energy Using Products (EuP) establishes a framework for the setting of eco design requirements on energy using products addressing all environmental aspects related to such products from a life cycle perspective, which we support. We consider all elements and criteria and its legal base of article 95 of the EC Treaty, as foreseen in the directive as essential for coherent product legislation on energy using products, where considered necessary. It is a framework that is dynamic (it allows the coupling of minimum product requirements with benchmarks and foresees regular reviews), it is well structured as well as modelled to take into account technological development, which we consider essential.

For achieving the EU's 20/2020 energy and climate change objectives it is vital that for energy using products the Eco Design Framework Directive continues to apply as it stands today. In particular, the proposed extension of the scope of the Eco Design Directive to "*energy related products*" must not undermine the ongoing implementation for energy using products.

Any modification must not upset any of the elements or criteria of the existing Eco Design Directive for energy using products.

The additionally proposed review of the scope of the Eco Design Directive by 2012 should in our view build upon the experience gained with the implementation of the directive by then, and especially consider if it indeed delivered the desired results.

In so far as product legislation is concerned, it can only be effective if it is properly enforced. Therefore, implementation of existing product related legislation, and the Eco Design Directive 2005/32/EC in particular, as well as market surveillance and its enforcement are now in our view a vital step for a coherent product policy applying on the products that Orgalime industries manufacturer.

Minimum requirements and benchmarks alone, however, cannot deliver the necessary change of consumption behaviours. It is the market that needs to respond to the availability of sustainable products and consumers need to be able to afford such products. Orgalime therefore supports the proposal of the action plan to accompany product legislation with incentives and public procurement rules.

Such incentives need to be established at a reasonable level so that not only the very top end products would be promoted, since this would mean that the necessary critical mass to reduce energy consumption could not be reached.

## 2. Proposal for an amendment of the Eco Label Regulation

Product labelling is one tool of providing information to the consumer; it may however not always be the preferred option. For example, in business to business relationships, and especially on components, labelling is less relevant and should not be imposed (see page 2).

Therefore, Orgalime underlines the importance of keeping the voluntary character of the EU Eco Label as a label of excellence and that B2B products should not be included in the scope of the regulation. Globally acting companies, such as engineering companies, also require sufficient flexibility to use other labels of excellence, including national and international ones, as well as other tools for providing the necessary information.

The EU Eco Label has been accepted as a tool that can be used for proving conformity of products with eco design requirements established under the Eco Design Directive in so far as the EU Eco Label criteria corresponds with the established eco design requirement. The Eco Design Directive as a product policy measure is based on article 95 of the EC Treaty.

Considering this link and considering that the action plan proposes to link the eco label with incentives and public procurement, Orgalime believes that the legal base of the EU Eco Label Regulation should also be article 95 of the EC Treaty instead of the proposed article 175. The EU Eco Label Regulation addresses the

labelling of products that are supposed to move freely in the internal market. Non-harmonised criteria would risk a further fragmentation of the internal market.

Since the EU Eco Label has been added to the toolbox of instruments for presumption of conformity under the Eco Design Directive, we wish express our sensitivity when it comes to developing product group criteria for the Eco Label.

- The Eco Label criteria set the voluntary specifications for *one* product to provide the best environmental performances *within its category*.
- The criteria possibly developed under the Eco Label, if any, must be coherent with the work currently carried out at the European level in the context of the implementation of the Eco Design Directive.
- We are also particularly sensitive when Eco Label criteria may be developed to cover products for which eco-design requirements have not been set. They must be coherent with the current development of the Eco Design implementation measures, i.e. preparatory studies, consultation and current discussions.

Orgalime welcomes the strengthening of stakeholders' participation in the Eco Labelling Board. More particularly, we support the involvement of stakeholders, which are supposed to implement the Eco Label in practice, through the Eco Labelling Board into the development and revision of the Eco Label criteria as well as the review process of the annexes.

Orgalime does not support the proposed possibility to initiate the development/revision of criteria (shortened procedure). Instead, reviews of the Eco Label criteria should be in line with the timing and results of the reviews of implementing measures under the Eco Design Directive.

The abolition of the annual fees and the harmonisation of the registration is a positive step. However, we yet remain to be convinced that the proposed process of obtaining an Eco Label will encourage more companies to opt for the EU Eco Label. In particular, the necessity for third party certification has been maintained.

Finally, we feel that for product groups, for which a mandatory labelling requirement exists that also encompasses benchmarks (e.g.: energy label for household appliances), the Eco Label can be expected to be redundant for those parameters covered by both schemes.

### 3. Proposal for an amendment of the EMAS Regulation

Since Orgalime industries act on highly competitive global markets with complex global supply chains, the reality in our industry shows that European engineering companies today mainly opt for international management systems, and ISO standards in particular, rather than management systems that apply at regional or local levels only.

The main hurdles for taking up EMAS at a broader scale within our industries are:

- The significant administrative burden and costs related to introducing EMAS in a company.
- The unsatisfactory recognition of EMAS at international level.
- The burdensome and complex mandatory third party certification that EMAS certification requires is a time consuming as well as costly process, which is not necessarily beneficial for the improvement of companies' ecological profile.

The review should therefore in our view focus on the following aspects:

- Keep the voluntary character of the EMAS scheme
- Reduce the administrative burden and costs of EMAS certification
- Do not discriminate against other environmental management systems (EMS), and international EMS in particular, and keep as broad as possible a toolbox for companies. In particular, EMAS should not be developed as a standard of excellence.
- If the Commission wishes to raise the attractiveness of EMAS on a broader scale, including at international level, this in our view seems only achievable by removing the requirement of mandatory third party certification. This, however, is not taken up in the tabled proposal.
- As regards the IPPC directive and EMAS, Orgalime suggests coordinating the reporting system in order to reduce administrative burden and costs.

Orgalime views as positive that the Commission recognises that the costs linked with EMAS registration, verification and implementation are significant, especially for SMEs, which see costs as the main obstacle for taking up the EMAS scheme. We therefore welcome the introduction of a cluster and a step-by-step approach as well as the possibility to opt for corporate registrations. We support the requirement for Member States to adapt registration fees to the size of the organisation. We also support the possibility for member states not to charge any fees.

The EMAS review reinforced the environmental reporting tasks for registered organisations and Members States. We are concerned by the requirement making environmental performance reports publicly accessible. This mandatory requirement will go against the Commission's aim to reduce administrative burden, especially for SMEs.

It is Orgalime's view that there should be no discrimination against those companies, which have chosen to implement a different management system than EMAS.

It is a fact that the majority of Orgalime industries, which act on highly global and competitive markets, have chosen the ISO standard as the environmental management system, i.e. ISO 14001. While it allows companies to achieve similar objectives as with EMAS, the choice of ISO standards is mainly motivated by market forces, and particularly customer demand.

Therefore, we take the view that EMAS registered organisations should not be considered as being compliant with other legal requirements laid down in other legal instruments. We believe that it would be discriminatory against those companies which have chosen to implement another type of environmental management system having an equally or even better performance than EMAS.

Regarding information requirements, we generally support the development of guidance documents by the Commission. However, we are particularly sensitive when reference documents covering specific sectors are developed. Sector specific legislation, which applies to Orgalime industries, already contains information requirements, at various stages of the life cycle, such as in the Eco Design Directive, the Waste Electrical and Electronic Equipment Directive or the REACH Regulation. We are therefore concerned that additional information requirements under EMAS, particularly when they focus on production operations, will unnecessarily create additional administrative burden for companies. In any case, stakeholders should be involved in the development of such reference documents. Orgalime does not object to the bringing of EMAS at the international level, such as by allowing registration for companies operating outside the EU or a single corporate registration. However, we do not support introducing mandatory third party certification at international level.

#### **4. Communication on Green Public Procurement**

We note reluctance of public procurement managers to purchase better performing products. We therefore generally support the action plan's objective to improve public procurement rules and establish minimum harmonised criteria to the extent possible. We request such criteria to be consistent with the implementation process of the Eco Design Directive. We also propose to involve stakeholders in the development of these criteria.

## **CONCLUSIONS**

Orgalime agrees with many general principles brought forward by the action plan. In particular, Orgalime welcomes the emphasis placed on the role of the consumer and his buying decision, which will be decisive for changes in the market place and consumption patterns. However, we believe that these principles are not consistently or not fully applied in some of the proposed measures. This is particularly evident for the area of spreading of environmental information or the link between the different EU regulations and tools, such as the EU Eco Label, EU Energy Label or Public Procurement. Also, the proposed extension of the scope of the Eco Design Directive must not upset the implementation for energy using products, for which the framework needs to continue to apply as it stands today to contribute to the realisation of the EU's energy and climate change objectives.

We support the objective to explore the synergies between the different EU legislative initiatives. However, we feel that further improvements are still necessary for this purpose, again in the area of spreading product information. In our view, the current energy label already bears the potential to serve as

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*The European Engineering Industries Association*

an eco design label, provided that its application would not be immediate but that its applicability for a certain product group would be assessed, and if judged appropriate, be included in the respective Eco Design implementing measure for that product group after consultation of the affected industry sector. Labelling as one tool of environmental product information, however, should in our view only be considered in the area of consumer goods. Labelling should not be imposed in the area of professional goods, especially not on components.

The action plan sustainable industrial policy and sustainable consumption and production (AP SIP/SCP) should, in our view, for our sector complement the Eco Design Directive with measures that help fostering the take up of products in the market place (e.g.: through incentives, initiatives to stimulate public purchase to green their procurement, consumer awareness and education initiatives).

In general, action towards more sustainability should not result in undermining the competitiveness of EU engineering industries. This in the first place requires an improvement of the EU's framework conditions for engineering companies operating in the EU, also beyond the action plan, such as:

- A reliable long term policy and regulatory orientation and stability
- Generating the conditions to provide companies with a sufficient return on investment to develop innovative sustainable products in Europe
- Fair competition in the market place, especially from other regions of the world
- Sufficient enforcement of existing legislation with strong market control
- Developing the programmes needed to increase the availability of skilled personnel
- A better R&D and innovation policy and the introduction of a Community patent

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