

ECONOMIC AND VOLUNTARY INSTRUMENTS WITHIN THE FRAMEWORK OF THE EUROPEAN ENVIRONMENTAL POLICY

This report drafted by IBGE¹ aims to gather together a few elements of information in preparation for the conference jointly organised with the EESC on 10 November 2009

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INTEGRATION OF ENVIRONMENTAL AND ECONOMIC QUESTIONS

TREATIES

In the first years of the European construction, the questions related to the environment were not a major priority for the public authorities and the economic players. Thus, the Treaty of **Rome** establishing the EEC (1957) did not include any provision directly relating to the implementation of an environmental policy.

The 1970s saw the emergence of environmental concerns. In particular, the 9 Heads of State and Government who met in Paris in 1972 recognised that within the framework of economic expansion and improving quality of living, particular attention had to be paid to the environment.

Hence, the signal was given and an initial action programme, laying down the framework of the community environmental policy, was launched for the period 1973-76. It was followed by other multi-annual plans of the same kind which led to the adoption of a series of measures particularly concerning the protection of natural resources (air, water), the fight against noise emissions, the protection of nature and waste management.

The entry in force of the **Single European Act** in 1987 constituted a decisive reform for the environment: a specific heading related to it was set up in the treaty establishing the European Community. From that moment on, the community measures relating to the environment were able to be based on an explicit legal framework defining the objectives and the fundamental principles of the European Community's action in this domain. It was also stipulated that the requirements in terms of protection of the environment became a component of other Community policies.

The Treaty of **Maastricht**, which entered into force in November 1993, constituted new progress in several respects. First of all, it enabled the introduction of the concept of "sustainable growth with respect to the environment" in the missions of the European Community as well as the principle of precaution in the article laying down the foundations of the environmental policy (article 174). .

The Treaty of **Amsterdam** (1997) endeavoured to consolidate the guarantees resulting from the Single Act and from the Treaty on the European Union by inserting the principle of sustainable development in the very objectives of the European Union (article 2 TEU) and in the missions of the Community (article 2 TEC) as well as by inserting at the top of the treaty establishing the European Community a new article (article 6 TEC) relating to the principle of integration of the environment in the definition and implementation of other policies.

THE 6TH COMMUNITY ENVIRONMENT ACTION PROGRAMME

Article 2.1 of the 6th Community Environment Action Programme² (6EAP) provides that this constitutes "*a basis for the environmental dimension of the [European Sustainable Development Strategy](#) and contributes to the integration of environmental concerns into all Community policies*".

There are four key environmental priorities: Climate change, Nature and biodiversity, Environment and health and quality of life, and natural resources and wastes.

For each of these areas, the programme defines the general aim, the main objectives to be achieved to meet this and lays down, where appropriate, targets and deadlines. It further lays down a series of priority actions to be implemented, including thematic strategies. Article 4 describes the minimum requirements to which these strategies must respond.

In relation to the question of economic and voluntary instruments, one will particularly note that this 6th Programme pursues the general objective of "*better resource efficiency and resource and waste management to bring about more sustainable production and consumption patterns, thereby decoupling the*

² Decision no. 1600/2002/EC of the European Parliament and of the Council of 22 July 2002 laying down the Sixth Community Environment Action Programme ([OJ L 242 of 10/09/2002](#))

use of resources and the generation of waste from the rate of economic growth and aiming to ensure that the consumption of renewable and non-renewable resources does not exceed the carrying capacity of the environment (Art. 2.2, 4th paragraph). This must particularly include (Article 8.2):

- a review of the impact of subsidies relating to natural resources and waste
- development and implementation of a broad range of instruments including research, technology transfer, market-based and economic instruments, ...
- promotion of extraction and production methods and techniques to encourage eco-efficiency and the sustainable use of raw materials, energy, water and other resources
- raising awareness of the public.

This programme also makes several other explicit references on the use of economic and voluntary instruments:

- Article 3, point 4 provides that there must be "promotion of sustainable production and consumption patterns by effective implementation of the principles set out in Article 2, to internalise the negative as well as the positive impacts on the environment through the use of a blend of instruments, including market based and economic instruments. This requires, inter alia:
 - encouraging reforms of subsidies that have considerable negative effects on the environment and are incompatible with sustainable development, inter alia by establishing, by the mid-term review, a list of criteria allowing such environmentally negative subsidies to be recorded, with a view to gradually eliminating them,
 - analysing the environmental efficiency of tradable environmental permits as a generic instrument and of emission trading with a view to promoting and implementing their use where feasible,
 - promoting and encouraging the use of fiscal measures such as environmentally related taxes and incentives, at the appropriate national and Community level"
- Specifically concerning sustainable production methods, point 5 added the need for "encouraging wider uptake of the Community's Eco-Management and Audit Scheme (EMAS)" and "encouraging voluntary commitments or agreements to achieve clear environmental objectives, including setting out procedures in the event of non-compliance"
- With regards sustainable development, point 6 specifies the need for "encouraging the uptake of eco-labels and other forms of environmental information", "encouraging the use of reliable self-declared environmental claims" and "promoting a green public procurement policy, allowing environmental characteristics to be taken into account"
- Point 7 targets the integration of environmental objectives and considerations in the field of finance and in particular in the EIB and EBRD
- Article 5.2 devoted to actions to be implemented in the domain of climate change cites:
 - "the establishment of a Community framework for the development of effective CO₂ emissions trading with the possible extension to other greenhouse gases" (point i-b).
 - "undertaking as soon as possible an inventory and review of subsidies that counteract an efficient and sustainable use of energy" (point ii-a)
 - "promoting the use of fiscal measures, including a timely and appropriate Community framework for energy taxation, to encourage a switch to more efficient energy use, cleaner energy and transport and to encourage technological innovation" (point vi-a)
 - "encouraging environmental agreements with industry sectors on greenhouse gas emission reductions" (point vi-b)

Opinion of the EESC

In its opinion³ on the 6th Programme formulated on 30/05/2001, the EESC focussed in particular on the following points:

- 2.7: *"The Committee agrees with the Commission's view that subsidies must not, even indirectly, encourage environmentally harmful activities, but should favour the development of design and production processes for environment-friendly products." The financial sector's activities should also be geared to this end".*
- 2.16: *"... the Committee considers that information and initiatives to steer consumers towards more eco-friendly products and suppliers must be a priority"*
- 3.4: *"Rewarding more environmentally-aware behaviour, in part through non-economic incentives (along the lines of eco-labelling), is globally a more effective instrument than sanctions".*
- 3.5: *"Market instruments such as eco-taxes and environmental tax reforms should be examined more closely in order to assess the real benefits for the environment, and must address the need for a harmonised approach at Community level, without distorting competition within the Community or jeopardising the competitiveness of European industry" The Committee would strongly argue that, in keeping with their name, such forms of taxation should be used to foster more ecological products, technologies and methods and/or to restore the environment".*
- 3.6: *"Tax incentives to promote technological innovation and guide industrial processes along more environment-friendly lines are also appropriate, provided they do not entail market distortions".*

Mid-term review

In its mid-term review⁴, the Commission argues strongly for "*shifting the tax burden away from areas the EU is trying to promote, such as employment, and onto resource and energy consumption and/or pollution*". It says it is committed to "*removing environmentally damaging subsidies*" and announces the holding of a major conference "*beyond GDP*".

The Environment Council, in its conclusions of⁵ 28/06/2007 pays great attention to economic instruments. It awaits with interest new developments in this field, encourages seeking possibilities of shifting the tax burden away from employment to consumption of resources and/or pollution, reaffirms that the rate of internalisation of environmental costs must be increased, awaits with interest the reform of environmentally-harmful subsidies. It also is favourable to instruments designed to support (eco) innovation processes.

For the European Parliament⁶ also, more effort must be put into reforming ecological taxation. On this matter, European politicians recommend "*a gradual shift of the tax burden from welfare-negative taxes (e.g. on labour) towards welfare-positive taxes (e.g. on environmentally damaging activities, such as resource use or pollution)*" They invite the Commission to put forward concrete proposals by the end of 2008 to phase out gradually all environmentally harmful subsidies over the next five years.

On the other hand, to respond to environmental challenges, politicians feel it essential to have restricting legislation and stress the importance of a correct and complete implementation of the existing legislation.

³ Opinion of the Economic and Social Committee on the "Proposal for a Decision of the European Parliament and of the Council laying down the Community Environment Action Programme 2001-2010 - 30/05/2001 - [NAT/104](#)

⁴ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the Mid-term review of the Sixth Community Environment Action Programme [COM/2007/0225 final](#)

⁵ Press release - 2812th session of the ENV Council - [28/06/2007](#)

⁶ European Parliament Resolution of 10 April 2008 on the mid-term review of the Sixth Community Environment Action Programme - [2007/2204\(INI\)](#)

In this respect, some express their fears about suggestions aiming to replace the common rules with voluntary agreements or other non-restricting measures.

To overcome the lack of information given to citizens, European politicians propose the development of a "clear and exhaustive" labelling system, which would contribute considerably to guiding consumers to the "right choice". The question of green public procurement and an alternative to GDP is also raised.

THE LISBON STRATEGY

During the meeting of the European Council in Lisbon (March 2002), the Heads of State or Government of the European Union launched an ambitious programme aimed at **responding to economic evolutions induced by globalisation**. The countries of the Union committed to implement the policies and reforms necessary to make the European economy a competitive, dynamic, knowledge and innovation-based economy.

To achieve this objective, European leaders ruled in favour of a global strategy, resting on three pillars:

- An economic pillar preparing the ground for the transition to a competitive, dynamic, knowledge-based economy. Emphasis is placed on the need to adapt constantly to changes in the information society and to boost research and development.
- A social pillar designed to modernise the European social model by investing in human resources and combating social exclusion. The Member States are expected to invest in education and training, and to conduct an active policy for employment.
- An environmental pillar

This last, quite short pillar in the Lisbon Strategy was subject to specific developments during the meeting of the European Council in Goteborg in June 2001 with the adoption of a European Union strategy in favour of sustainable development ([SDS](#)).

Further, on the basis of a mid-term review concerning the implementation of the Lisbon Strategy, it was particularly decided during the meeting of the European Council of March 2005⁷, to focus efforts on achieving stronger and more sustainable growth.

New governance instruments have been put in place. Now, the main European guidelines in terms of economy and employment, called the broad economic policy guidelines (BEPG), are determined mutually by the Member States on the proposal of the Commission for a period of three years. On the basis of these broad economic policy guidelines, and depending on its own socio-economic situation, each of the Member States establishes its priorities for growth and employment which it writes up in a document called a national reform programme (NRP). And the implementation of this strategy, under its national and community aspects, is now subject to annual global evaluation at the time of the spring-time meetings of the European Council.

With regards the guidelines and objectives related to protecting the environment in the context of this renewed Lisbon Strategy, we can note the following points:

- The monitoring indicators include: "Greenhouse gas emissions", "Energy intensity of the economy", "Volume of freight transport in relation to GDP"
- By virtue of guideline no. 11⁸, "*to encourage the sustainable use of resources and strengthen the synergies between environmental protection and growth, Member States should ... promote the development of means of internalisation of external environmental costs and decoupling of economic growth from environmental degradations. The implementation of these priorities should be in line with existing Community legislation and with the actions and instruments proposed in the Environmental Technologies Action Plan (ETAP)*"...

⁷ European Council of Brussels - Conclusions of the Presidency - [7619/05 REV 1](#) - 23/03/2005

⁸ Communication from the Commission to the European Council - Integrated Guidelines for Growth and Jobs (2008-2010) - [COM\(2007\) 803 part V](#) - 11/12/2007

THE EUROPEAN UNION SUSTAINABLE DEVELOPMENT STRATEGY

The European Union Sustainable Development Strategy adopted in 2001 during the Goteborg summit was comprised of two parts. The first proposed objectives and policy measures to tackle a number of key unsustainable trends (climate change, transport, public health, natural resources, poverty and ageing of the population). The second part called for a new approach to policy-making with the obligation for the Commission to submit an Impact Assessment for each new policy.

After a long revision process which started in 2004, the Heads of State or Government adopted the new European Union Sustainable Development Strategy in June 2006⁹. For each of the 7 key challenges listed in point 13 (climate change and clean energy, sustainable transport, sustainable consumption and production, conservation and management of natural resources, public health, social inclusion, demography and migration, operational objectives and targets are given as well as a list of actions.

In terms of sustainable consumption and production, we note that this strategy assigns the following as operational objectives:

- promoting sustainable consumption and production by addressing social and economic development within the carrying capacity of ecosystems,
- decoupling economic growth from environmental degradation.
- improving the environmental and social performance for products and processes
- aiming to achieve by 2010 an EU average level of Green Public Procurement equal to that currently achieved by the best performing Member States.
- increasing the EU's global market share in the field of environmental technologies and eco-innovations.

Some points of this strategy recommend more intensive use of economic instruments:

22. *The EU will seek to use the full range of policy instruments in the implementation of its policies. The most appropriate economic instruments should be used to promote market transparency and prices that reflect the real economic, social and environmental costs of products and services (getting prices right). Their potential to reconcile environmental protection and smart economic growth and exploit win-win opportunities should be recognised. Additionally, their suitability should be judged against a set of criteria, including their impact on competitiveness and productivity.*
23. *Member States should consider further steps to shift taxation from labour to resource and energy consumption and/or pollution, to contribute to the EU goals of increasing employment and reducing negative environmental impacts in a cost-effective way. In this context, the Commission should gather relevant information by 2007.*
24. *By 2008, the Commission should put forward a roadmap for the reform, sector by sector, of subsidies that have considerable negative effects on the environment and are incompatible with sustainable development, with a view to gradually eliminating them.*

2009 Review

In its 2009 review¹⁰, the Commission indicates that progress has been made at EU level on the seven key challenges. As an example, the Commission cites the December 2008 Climate and Energy Package, the actions carried out to make transport greener and the putting in place of smarter transport systems, the improvement of the energy efficiency of buildings, the putting in place of an integrated maritime policy framework and the European strategy on health, the work on migration flows, or further the fight against poverty and exclusion.

Concerning the domain of sustainable consumption and production, the Commission feels this shows a rather mixed picture. With "*some progress being achieved in terms of decoupling environmental degradation and*

⁹ The new EU Sustainable Development Strategy - Council of the European Union - [ST 10117/06](#) - 9 June 2006

¹⁰ Mainstreaming sustainable development into EU policies: 2009 Review of the European Union Strategy for Sustainable Development - [COM\(2009\)400](#) - 24/07/2009

the use of natural resources from economic growth, consumption patterns, mainly regarding energy consumption, however, show clear unfavourable developments, whereas production patterns show positive signs" The Commission mentions the publication of an action plan on this matter ([AP SCP/SIP](#)) accompanied by a report on Green Public Procurement (GPP) and proposals for reviewing guidelines concerning eco-labelling and eco-design as well as "EMAS" and "eco-label" regulations. The Commission also cites the putting in place of the "retail forum", the Energy Star Regulation, the revision of the IPPC Directive, the entry in force of the REACH regulation and the setting up of the European Chemicals Agency (ECHA) and the progress made in the implementation of the Environmental Technologies Action Plan (ETAP).

Concerning the economic and financial instruments, the Commission mentions the progress made in terms of eliminating EHS in the domains of fishing and agriculture. It also cites the public consultation related to the [Green Paper on the use of market-based instruments](#) (MBI) as well as the new guidelines concerning state aid for the protection of the environment¹¹ which will provide a 10% bonus on maximum aid intensity on eco-innovation investments.

Still, according to this report, measures aiming to support the real economy and reduce the social impact of the current crisis must be compatible with long-term sustainability goals and with a smart green growth strategy.

Sustainable consumption and production action plan

Our current consumption and production modes have a big impact on the environment, particularly with regards greenhouse gases, pollution and the exhaustion of resources. Consequently, on 16/07/2008 the Commission presented the Sustainable Consumption and Production and Sustainable Industrial Policy Action Plan (AP SCP/SIP)¹².

The central element of this action plan is to create a dynamic framework designed to improve the energy and environmental performance of products and foster their uptake by consumers. This plan is based on 2 sections, a production section and a consumption section:

- The production section aims, whilst respecting internal market rules, to make industry produce smarter products whilst making more efficient use of resources. The scope of the Ecodesign Directive for energy consumer products (EuP) will be extended to all energy-related products (ErP) with the exception of means of transport. Minimum requirements will be fixed for products with a big impact on the environment, with the focus being on the essential environmental aspects. Tools will also be developed to monitor, benchmark and boost eco-innovation as its uptake in the EU. The Community eco-management and audit scheme ([EMAS](#)) which helps companies to optimise their production processes, reducing environmental impacts and making more effective use of resources will be revised to increase the participation of companies and reduce the administrative burden and costs to SMEs.
- The consumption section aims to help consumers choose the most efficient products and stimulate demand for such products. The Energy Labelling Directive will be extended to cover a wider range of products, including energy-using and other energy-related products. After an impact assessment, it will also establish a harmonised base for public procurement and incentives provided by the EU and its Member States. The [Ecolabel Regulation](#) will be revised to simplify and streamline the process of obtaining an ecolabel, and extend the product coverage. A retail forum will be set up to reduce the environmental footprint of the retail sector and its supply chain, promote more sustainable products, and better inform consumers. The Commission is examining the possibility of revising energy taxation. To reduce the environmental impact of public sector consumption which represents a market of close to 2,000 billion euros (approximately 16% of the

¹¹ Environmental State Aid Guidelines - [OJ no. C82, 01/04/2008, p.1](#)

¹² Sustainable Consumption and Production and Sustainable Industrial Policy Action Plan - 16/07/2008 - [COM\(2008\) 397](#) and Impact Assessment Summary - [SEC\(2008\)2111](#)

Union's GDP), the Commission has presented a communication on ecological public procurement ([GPP](#)).

The Council in its conclusions adopted on 04/12/2008¹³ favourably welcomes this action plan. It further emphasises the need to set appropriate indicative objectives for sustainable consumption and efficient use of resources. The Commission is specifically asked to study the possibility of introducing the carbon footprint of products in the environmental labelling instruments existing in the EU, for example, the ecolabel and the indication of the energy consumption.

Further, Member States invite the Commission as soon as possible to start works on common voluntary methodologies in view of facilitating, in the future, the establishment of the carbon footprint of organisations and the calculation of the carbon footprint of products.

As to the issue of green public procurement, the Council remains more circumspect. It takes note "of the Commission's intention to introduce gradually... reasonable objectives - below which public procurement and national incentives would not be allowed".

It should be noted that the EESC¹⁴ has stated it is overall favourable to the action plan, whilst having reserves about the composition of the "Retail Forum".

RECENT MOMENTUM ... IN A CRISIS SITUATION

The "Beyond GDP" report

Almost 2 years after the "Beyond GDP" conference¹⁵, in the month of August 2009 the European Commission published a communication¹⁶ on this subject. In it, it describes 5 priority actions:

- complementing GDP with environmental and social indicators.
- near real-time information for decision-making,
- more accurate reporting on distribution and inequalities
- developing a European Sustainable Development Scoreboard and
- extending national accounts to environmental and social issues

The European Economic Recovery Plan

The European Economic Recovery Plan¹⁷ presented at the end of November 2008 by the Commission attempts to give a European framework to the recovery measures planned by the governments of the Member States. The major objective of this plan is to "*speed up the shift towards a low carbon economy*". Of the 10 actions suggested to Member States, we note:

- the financing of major infrastructure projects,
- improving energy efficiency in buildings
- promoting the rapid take-up of green products (reduced VAT, etc.)
- developing clean technologies in particular in the construction industry and automobile sector

¹³ Sustainable Consumption and Production and Sustainable Industrial Policy Action Plan - Conclusions of the Council - [ST 16914/08](#) - 04/12/2008

¹⁴ Opinion of the Economic and Social Committee on the "Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - Sustainable Consumption and Production and Sustainable Industrial Policy Action Plan- 25/02/2009 - [NAT/413](#)

¹⁵ Beyond GDP - Measuring progress, true wealth and well-being of nations, 19-20 November 2007, [Conference Proceedings](#) - 2009

¹⁶ Beyond GDP - Measuring progress in a changing world - [COM\(2009\)433](#) - 20/08/2009

¹⁷ A European Economic Recovery Plan - [COM\(2008\)800](#) - 26/11/2008

The meeting of the European Council in December 2008 marked its agreement¹⁸ to the plan whilst only keeping the reference to "an effort equivalent in total to about 1.5% of EU GDP". The Employment Committee¹⁹ whose opinion was approved by the ECOFIN Council emphasised further that all short-term measures should be coherent with long-term objectives. The European Council of March 2009²⁰ felt that the implementation of the plan had made satisfactory progress. It has furthermore reached an agreement aiming to provide additional aid of 5 billion euros in order to support in particular projects in the energy domain.

Whilst the EESC²¹ is overall satisfied with the plan, it does however emphasise that the injection of new money is much less than the 200 billion euros announced.

Towards an eco-efficient economy

One of the priorities of the Swedish Presidency is to put the European economy on the tracks of eco-efficiency via an approach which combines economic growth and a policy to fight against climate change.

The report presented by the Presidency²² states that the European leadership is evident in respect of its climate commitments. But, in view of continuing to attract investments and companies, more effort must be made to promote innovation and energy efficiency. A global transition to a low-carbon economy to combat climate change represents a major opportunity for all countries to opt for cleaner development. The recession emphasises the timeliness of investing in green transport, better insulation, energy saving devices and clean energy *inter alia*.

The Swedish report outlines three domains where the European policy can promote a shift towards a competitive green economy:

- Resource systems efficiency, in particular energy efficiency and sustainable city planning would be a strategy with direct political appeal in times of constrained economies.
- On the other hand, the new technology markets such as renewable energies and sustainable transport could be solutions in the sectors which are major contributors to climate change.
- Finally, the fixing of global carbon pricing is inevitable, if the world takes the long-term eco-efficiency path.

The report does however warn about "collateral damage": achieving these climate objectives is by no means automatic or easy. To the contrary they require profound policy actions and behavioural responses by companies and consumers - globally. Consequently, the report presents European legislators with an action plan on the way in which to pursue both national and international cooperation for a sustainable future.

The report exhorts European legislators to adopt solutions combining taxes, defining standards and other forms of governance in an innovative manner, just like the green legislative packages for renewable energies. Further, the initiatives to promote clean technologies and better platforms for evaluating the impact of climate policies must be developed.

Finally, at international level, the EU should favour a gradual increase in the global carbon price as well as international standards, argues the report. In order to ensure equal footing in the short term, the EU should also encourage the commitment of emerging economies.

¹⁸ European Council of Brussels of 11 and 12 December 2008 - Conclusions of the Presidency - [ST 17271/1/08 REV 1](#)

¹⁹ Opinion of the Employment Committee on the Economic Recovery Plan - [ST 16506/08](#) - 28/11/2008

²⁰ European Council of Brussels of 19 and 20 March 2009 - Conclusions of the Presidency - [7880/1/09 REV 1](#)

²¹ Opinion of the European Economic and Social Committee on the Communication from the Commission to the European Council "A European Economic Recovery Plan" - 15/01/2009- [ECO/244](#)

²² [A European Eco-efficient Economy: governing climate, energy and competitiveness - report for the 2009 Swedish presidency of the Council of the European Union - Stockholm Environment Institute - 2009](#)

Under the impetus of the Swedish Presidency, conclusions²³ were adopted in the Environment Council on 21 October last, in Luxembourg. These promote the eco-efficiency of the economy to the rank of essential elements of the post 2010 Lisbon Strategy. This means huge recognition of the need to conduct environmental and economic policies harmoniously in a sustainable approach and the major role which the economic instruments will play in this context.

The conclusions recognise in fact the need to develop economic instruments (internalisation of costs, shifting from taxing labour and enterprises towards taxing resource and energy use as well as negative environmental impacts, use of a carbon tax). They invite the MS to intensify discussions on the way of best using and promoting green public procurement. They also ask the Commission to continue to develop market-based instruments (Open Forum for exchange of experiences) and finally to present, as a matter of urgency, a reform of environmentally harmful subsidies... not forgetting the development of indicators to complement gross domestic product (GDP).

One can note with interest that the discussions have showed a change in the position of some MS for which the current environmental stakes justify the use of economic and fiscal instruments, whereas these very MS were previously very reticent in this respect.

The discussions related to an eco-efficient economy are also carried out by the Swedish Presidency in the Energy and Ecofin sections (informally) and conclusions are planned at the Competitiveness Council. In this last case, some MS do however take positions which are less in line with those displayed for the environment section.

ECONOMIC INSTRUMENT DEVELOPED AT EUROPEAN LEVEL TO FAVOUR ECO-PRODUCTS

THE GREEN PAPER ON MARKET BASED INSTRUMENTS

In 2007, the Commission published a Green Paper on market based instruments²⁴. In it, it reviewed a wide range of sectors where the use of market based instruments (MBI), particularly taxation, could be used more extensively. We shall cite energy consumption, the effects of transport on the environment and other domains of the environment policy.

The Green Paper in particular studies possible ways forward with the Energy Taxation Directive in order to make it more able to support the EU's environmental and energy policies, as announced in the Action Plan on Energy Efficiency. The Green Paper also deals with wider issues such as the reform of environmental taxation as well as the role of taxation and fiscal instruments in general within the framework of the EU's integrated energy and climate change agenda. Whilst it deals with indirect taxation, targeted subsidies and tradable emission rights, it does not address agri-environmental measures within the framework of the CAP, cohesion policy actions in the environment and energy sectors as well as the evaluation of state aid.

Opinion of the EESC

The EESC²⁵ is relatively critical of this Green Paper. It notes its major publication delay. It feels that the objective is no longer to determine "whether" these instruments must be used but "how" they must be used. It deplores that the Green Paper does not focus enough on crucial questions such as the interactions between obligations and prohibitions, regulation and MBI. It invites the Commission to take advantage of

²³ Towards Sustainability: Eco-efficient economy in the context of the post 2010 Lisbon Agenda and the EU Sustainable Development Strategy - Council conclusions - ST [14891/09](#)

²⁴ Green Paper on market based instruments for environment and related policy purposes - [COM\(2007\) 140](#) - 28/03/2007 and Commission staff working document **accompanying** the green paper on market based instruments for environment and related policy purposes- [SEC\(2007\)388](#) - 28/03/2007

²⁵ **Opinion** of the European Economic and Social Committee on market based instruments for the environment and related policy purposes NAT/253 - 2007

the public debate aroused by the Green Paper to illustrate with concrete examples the potential, the effects but also the limitations characterised by the different instruments designed to protect the environment. Finally it deems it essential that the planned summary concerning the ecologically harmful subsidies is presented as soon as possible and that these subsidies are eliminated as quickly as possible. The MBIs can in fact only produce the effects hoped for when all these subsidies have been eliminated.

Analysis of replies²⁶

The consultation took place between March and July 2008. Some 172 replies were formulated both by industrial organisations and industries (about a hundred), and governments (17), NGOs, universities, private individuals, etc.

Whilst most respondents were in favour of greater use of MBIs, some industry federations did however express concerns as to the problem of "carbon leakage". MBIs have been proposed in the transport, waste (the question of a harmonised dumping tax divides opinions), water (gradual price fixing rather than regressive by differentiating water for "normal usage" from water used for energy production) and biodiversity or atmospheric pollution sectors but also in the construction or food industry sectors. A reduced VAT rate for environmentally efficient products, tax reductions for investments into research and development and specific loans for environment projects are additional proposals. The creation of a forum of exchanges has proved popular.

Most respondents were in favour of a reform of environmentally harmful subsidies. Some priority sectors are singled out for criticism: agriculture, regional politics (structural funds), energy, transport (reduced tax on diesel, tax exemptions for fuel for maritime and air transport).

Opinions are shared as to the ideal level of power (European for a uniform solution, MS for subsidiarity). The question related to a reform of taxation divides opinions strongly also.

VOLUNTARY INSTRUMENTS DEVELOPED AT EUROPEAN LEVEL TO FAVOUR SUSTAINABLE PRODUCTION AND CONSUMPTION.

ENVIRONMENTAL AGREEMENTS

Within the framework of the 5th Environment Action Programme, in 1996 the Commission adopted a communication related to environmental agreements²⁷. It emphasises the advantages of such agreements:

- a proactive approach by industry;
- effective and tailor-made solutions;
- fast achievement of environmental objectives.

Contrary to the 1996 Communication which dealt with agreements at MS level, the 2002 Communication²⁸ exclusively concerns agreements at Community level.

A complete series of studies^{29,30,31,32,33,34} seek to assess their effectiveness.

²⁶ Commission staff working document **analysing the replies** to the green paper on market based instruments for environment and related policy purposes - [SEC\(2009\)53](#)- 16/01/2009

²⁷ Communication from the Commission to the Council and the European Parliament on Environmental Agreements - [COM\(96\)561](#)

²⁸ Action Plan "simplifying and improving the regulatory environment" - [COM\(2002\)278](#)

²⁹ [Voluntary Approaches for Environmental Policy - Effectiveness, Efficiency and Usage in Policy Mixes](#) - OECD - 2003

³⁰ [Les approches volontaires pour protéger l'environnement : quelques repères pour s'y retrouver](#) - Philippe Defeyt - 2004

³¹ [Les approches volontaires comme instruments de régulation environnementale](#) - Maia David - Revue française d'économie - Année 2004, Volume 19, Numéro 1, p 227-273

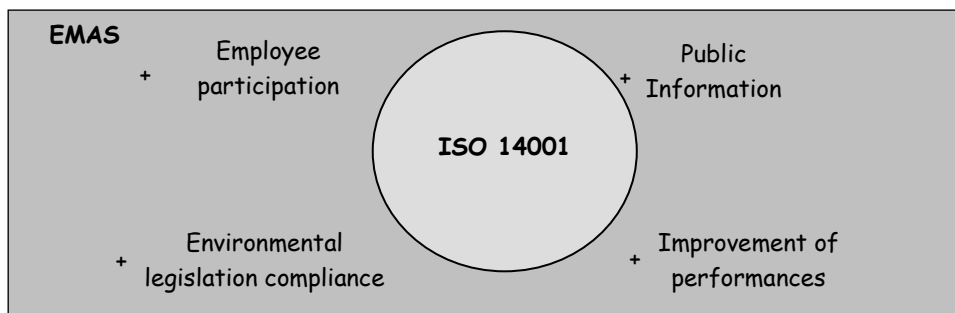
Let us take for example the case of the automobile industry. In 1995, in the context of fighting climate change, the Heads of State or Government set themselves the objective of reducing CO2 emissions of cars to 120g/km by 2012. In 1998, the European Automobile Manufacturers' Association (ACEA) made the voluntary commitment to reduce new car emissions to 140g/km by 2008. One year later, the Japanese manufacturers (JAMA) and Korean manufacturers (KAMA) made the same commitment for 2009. Feeling that this objective would not be achieved, with the average ACEA, JAMA and KAMA for 2006 being respectively 160, 161 and 164g/km, the Commission proposed legislating. After intense lobbying by the automobile industry, the European Parliament and the Council adopted a regulation³⁵ whose objectives were revised downwards (120g/km for 2015 and 95g/km for 2020). This regulation put in place a fine system in case of non-compliance.

THE EMAS REGULATION

Created in 1993 and revised for the first time in 2001 to take account of the standard ISO 14001, the EMAS³⁶ (Environment Management Audit Scheme) scheme is the European system which recognises the excellent environmental management of an organisation.

Whilst it is based on the standard ISO 14001, the EMAS scheme goes much further:

- demonstration of **compliance** with the legislation (not simply a commitment)
- demonstration of **improvement** of environmental performances (not simply a commitment)
- the **training** and the active **participation** of the personnel of organisations
- **information** of the public and other interested parties



Each Member State is required to establish an accreditation body responsible for performing registrations and supervising environmental verifiers as well as one or more competent bodies responsible for verifying that the registered organisation is indeed complying with the environmental legislation and other related standards and to guarantee that all the required elements are in place. They may also trigger list removal procedures, suspension procedures and temporary or permanent cancellation procedures.

Within the framework of the recurring revision process, studies have shown that whilst EMAS leads to **good environmental performances**, better even within the framework of EMAS than in the framework of other certified systems such as ISO 14001, it has **not achieved its full potential** (Currently a little more than 6,000 sites alone are registered with EMAS compared to about 35,000 for ISO 14001). On the other

³²[Les instruments volontaires : un nouveau mode de régulation de l'environnement](#) - Gilles Grolleau, Naoufel Mzoughi, Luc Thiebaut, Revue internationale de droit économique - 2004, pp 461-481

³³[Evaluation des accords volontaires : méthodes et résultats](#) - Matthieu Glachant - 2004

³⁴[Les accords volontaires, une évaluation des facteurs de succès](#) - Marc De Clercq

³⁵[Regulation setting performance emission standards for new passenger cars as part of the Community's integrated approach to reduce CO2 emissions from light-duty vehicles](#)

³⁶[EC Regulation \(EC\) no. 761/2001 of the European Parliament and of the Council of 19 March 2001 allowing voluntary participation by organisations in a Community eco-management and audit scheme](#)

hand, an extrapolation to the entire EU on the basis of the average of three MS with the most sites per million inhabitants gives a potential of 23,000 sites).

Mid 2008, the Commission therefore presented a new proposal aiming to **reinforce** the system by improving its **efficiency** and the **interest** it presents for organisations with specific attention for **small organisations** (SME and local authorities). The MS must help them and carry out promotion activities. On 17/03/2009, the European Parliament and the Council agreed on a compromise text. This compromise was guaranteed by the Parliament in plenary session on 02/04/2009 and is formally approved by the Council on 26/10/2009.

The EESC³⁷ feels that the proposed system is still highly complex. It asks for yet more incentives (1.8.1 and 1.8.2. 4.6 specifically for the SME).

THE ECOLABEL REGULATION

The European ecolabel was created in 1992 and then revised for the first time in 2000 in order to encourage companies to put more environmentally-respectful products/services on the market. This is a voluntary approach which goes beyond complying with minimum standards such as defined for example in the Ecodesign Directive. Ecolabelled products can bear the "ecolabel" logo and therefore be more easily detected by consumers whether they are public or private.

The award criteria are defined by **categories** of products/services and are subject to regular **revisions**. They are proposed by the EUEB (European Union Ecolabelling Board) whose members are representatives of competent bodies of MS, environmental NGOs, consumer and professional associations, unions, SME and retailers. They must then be approved by the MS and the European Commission before being able to be used for the awarding of the ecolabel for the category of products in question. The criteria are established such that a maximum of 30% of products present on the market can be awarded the ecolabel.

Currently, 26 different categories have been established (mattresses, light bulbs, paints and varnishes, hard floor coverings, soil improvers, vacuum cleaners, washing machines, dishwashers, refrigerators, steam cleaners, dishwashing detergents, laundry detergents, hand dishwashing detergents, all purpose cleaners, soaps - shampoos and conditioners, lubricants, personal computers, portable computers, shoes, clothing - bed linen and indoor textiles, copying and graphic paper, tissue paper, tourist accommodation and camping services). Criteria are being looked into for buildings.

At the start of 2009, almost 800 licences for more than 4,000 products were awarded. In number of licences, the category of **tourist accommodation** is by far the number one category (255). Then come the categories of all purpose cleaners (90), textiles (78) then paints (75). In number of products, paints come first of all (850), then all purpose cleaners (802), with tourist accommodation (255) being in 7th place.

The 2009 revised proposed by the Commission aims to reduce the bureaucracy and the cost related to obtaining the label as well as to increase the number of categories of products concerned, particularly for processed food, fishing and aquaculture products. This last question has been the subject of bitter discussions, with politicians doubting that the Ecolabel should be allowed for processed food, fishing and aquaculture products.

In accord with the Council, European politicians therefore invite the Commission to assure first of all that reliable environmental criteria can be established for food and beverages. On the other hand, to avoid spreading confusion with products from biological agriculture, the Commission will have to consider the possibility of only awarding the ecolabel to these products alone. Further, mindful of responding to the great expectations in terms of quality and chemical safety, the Ecolabel should not be awarded to products or substances causing serious concerns (toxic or carcinogenic, for example). The question of reducing tests on animals must also "remain at the centre of the development and revision of criteria".

³⁷ Opinion of the European Economic and Social Committee on the Proposal for a Regulation of the European Parliament and of the Council on the voluntary participation by organisations in a Community eco-management and audit scheme (EMAS) - [NAT/418](#) - 25/02/2009

For its part, the EESC³⁸ feels that an ecolabel for all food products whether they are fresh or processed would be an initial step towards a real ecologisation of the supply chain. It also feels that it would only be fitting to issue the ecolabel to processed products if the entire product life cycle is taken into account. Neither does it feel it desirable to establish a link between the regulation on biological product and the regulation on the ecolabel.

THE COMMUNICATION ON PUBLIC PROCUREMENT FOR A BETTER ENVIRONMENT

In a 2003 communication³⁹ on the integrated product policy, the Commission invited Member States to adopt national action plans on green public procurement by 2006. But out of the 14 Member States which did so, the Commission feels that only 7 actively use such public procurement.

In its 2008 communication⁴⁰, the Commission proposes that by 2010, 50% of all appeal for tenders' procedures are green and comply with a series of criteria to be established together. These criteria would particularly have to be based on the current European and national criteria used for the ecolabel. In its communication, it cites 10 priority sectors: food and catering services, construction, transport and transport services, energy, office machinery and computers, clothing, uniforms and other textiles, paper and printing services, furniture, cleaning products and services, equipment used in the health sector. "Green" public procurement will then be reinforced by voluntary measures: The Commission will give the public authorities guidelines and tools to make their practices in this domain "greener". For example, it will distribute templates of briefs compliant with the legislation governing the internal market.

The Council is overall satisfied⁴¹ with this communication. It favourably welcomes the definition of the 10 priority sectors as well as the global indicative policy objective of 50% of ecological public procurement contracts per MS. Each MS should, however, remain free to define its own objectives in each of the sectors and to apply to ecological public procurement more ambitious terms and conditions. They also ask the Commission to develop a methodology enabling the progress of the MS in the priority sectors to be evaluated as of 2010.

³⁸ Opinion of the European Economic and Social Committee on a community Ecolabel System - [NAT/416](#) - 26/02/2009

³⁹ Communication from the Commission on an Integrated Product Policy: Building on environmental life-cycle thinking - [COM\(2003\)302](#) - 18/06/2003

⁴⁰ Communication from the Commission on public procurement for a better environment - [COM\(2008\) 400](#) - 16/07/2008

⁴¹ Conclusions of the Council on public procurement for a better environment - [ST 13068/08](#) - 25/09/2008