

23 February 2006

BRIEFING NOTE FOR A MEETING WITH PETER CARL FRIDAY 24 FEBRUARY 2006

1. DEVELOPMENT OF EU CLIMATE POLICY

Introduction

In the context of the current political discussion about the interrelation of Competitiveness, Energy and Environment issues, UNICE deems it essential to make that connection also when developing EU climate change policy. European companies are faced with intensifying international competition, which has to be dealt with appropriately in order to sustain the European social and environmental model. Only profitable companies can afford to make investments in clean and energy efficient technologies. With this in mind, UNICE recommends actions now in the following three areas.

a) Urgent need for a truly global agreement for combating climate change

UNICE believes it is crucial, in particular with regards to the outcome of the UNFCCC meetings in Montreal, for the EU to reconsider its climate diplomacy and the way it addresses the post-2012 issues. The EU should explore new approaches for defining long-term goals for emissions control, adapted to the essential need to engage all parties in climate protection. New innovation and technology-driven approaches will increase the chance for an international agreement in which the United States and other countries, especially the fast-growing emerging economies, will join.

b) Extend the scope of the EU Emission Trading Scheme (ETS) review

During the review of the EU ETS, UNICE deems it essential that the scope of the review is extended to include issues such as increasing power prices in Europe. High power prices have negative competitiveness implications for in particular the energy intensive industries and have in some places led to closure or relocation of industries. There are many factors influencing the price of electricity, such as high oil and gas prices, not fully liberalised gas and electricity markets, EU ETS etc. The extent of each factor is at the moment not known and UNICE therefore requires further analysis by the Commission of the issue and a willingness by policy makers to find appropriate solutions to the root problems.

c) Concern over some recommendations in Commission's Guidelines for National Allocation Plans (NAPs)

UNICE encourages the Commission to better harmonise the interpretation of the definitions in the ETS Directive, since experience from the first trading period shows unfair competition between EU Member States. UNICE notes with interest the step towards further harmonisation in the Commission Guidelines on NAPs, but is concerned over the lack of consultation, particularly with those new installations that will be included in the ETS for the first time.

UNICE also expresses great concern over the potential worsening situation of EU competitiveness, which could result from the Commission's recommendations to reduce allocations of allowances in the EU-25 by 6%. In the framework of the 2008-2012 NAPs, all options should be left open for Member States regarding the choice of how to comply with reduction targets in the most efficient way, taking into account national circumstances. No explicit or implicit limit should be placed on the use of flexible mechanisms (CDM and JI). For the purposes of having a transparent and equitable process, it is also essential that these NAPs are submitted to the Commission by the deadline 30.6.2006.

2. REACH

Background

- On 17 November 2005, the European Parliament finalised its first reading on REACH.
- On 13 December 2005, the Council adopted its political agreement on REACH.
- The *Registration* step has been improved, in particular for SMEs, with a prioritisation according to risk for low tonnages (1-10T).
- The *Authorisation* procedure is more stringent and raises major concerns from all industry sectors and in particular from downstream users.

UNICE main priorities on REACH for the Second Reading:

- Convince decision-makers that the Council Political Agreement on *Authorisation* is the maximum feasible for industry.

UNICE main messages

- the Council Political Agreement on *Authorisation* constitutes in itself already a compromise between the Commission initial proposal and the EP first reading;
- EP first reading on *Authorisation* goes too far leading de facto to mandatory substitution; it is unworkable for industry and would put EU business under unnecessary pressure with strict rules that do not exist in other part of the world.

3. **WASTE**

Background

- On 21 December 2005 the European Commission published its Thematic Strategy on the Prevention and Recycling of Waste and proposed changes to the Waste Framework Directive to implement this. It is now discussed at EP and Council levels.
- The proposal goes in the right direction.
- UNICE supports the intention to increase the amount of waste recovered and recycled in Europe and to make European business more resource efficient.
- However, UNICE is concerned that there are still areas that remain unclear, such as when waste ceases to be waste and when recycling is completed.
- For the proposed modified Directive to be successful in implementing the ideals of the strategy, more work is needed: (1) further clarifications are still necessary, in particular with regard to the issues of by-products and secondary raw materials; (2) the modified Directive should also strongly support new markets for recycled materials.
- UNICE offers its expertise in these matters to support the European Council and Parliament in their discussions on the proposals to help produce an outcome, which is best both for the environment and for European Competitiveness.

UNICE main priorities

Avoid distortion of the internal market

- Under the current Directive, Member States have had the possibility of interpreting the definition of waste differently, which has led to distortion of the internal market: it is a real failure of good governance and functioning of the internal market if the same material, managed and used in identical processes, is considered to be waste in one Member State and a product in another.

Re-use by-products

- It should be made clear that by-products are not waste since they can be re-used and can have a high economic value in further manufacturing.

UNICE main messages

- It is essential to establish criteria, including those of health, safety and environment to define secondary raw materials. These criteria need to be developed together with industry using a case-by-case (material-by-material) approach.
- Secondary raw materials are traditionally recovered by industry and hence used again as raw materials in industrial processes. Such use by the markets must be encouraged since it contributes to a more resource-efficient sustainable economy.
- UNICE takes the view that there is no clear distinction between the scope of the future Regulation on Chemicals (REACH) and the substances regulated in

the(revised) Waste Framework Directive. It must be ensured the materials are not subject to double regulation.

4. AIR QUALITY (Clean Air For Europe - CAFE Programme)

Background

- On 21 September 2005 the Commission adopted its Thematic Strategy on Air Pollution (TSAP - CAFE) and a proposal for an Ambient Air Quality Directive (AAQD) to implement this. It is now discussed at EP and Council levels.
- The aim of CAFE is to develop a long-term, strategic and integrated policy advice to protect against significant negative effects of air pollution on human health and the environment.
- UNICE plays a special role of interface between the Commission and the industry, and prepares industry input for the CAFE Steering Group and its diverse expert subgroups.

UNICE main priorities

- Ensure that the EP and Council agree on realistic ambitions for improving air quality;
- However, DG ENV had proposed much higher ambitious levels for air quality objectives, whose implementation costs would have risen sharply and be disproportionate to the extremely small improvements achievable. DG ENV supports EP and Council pushing back these higher ambitions.

UNICE main messages

European industry is playing its part in the Commission's efforts to improve air quality but is concerned about the consequences of other sectors not delivering their share of emission reductions:

- industry is already highly regulated under current legislation (e.g. IPPC)
- although additional industrial and road transport measures are expected, it is important to recognize that the new elements within the proposed AAQD rely very significantly on action by other sources of air pollution including domestic heating (coal and wood burning) and agriculture, and
- industry fears that if unreasonable expectations are set for these other sectors or if they are not implemented in practice, industry will be expected to compensate at escalating cost and further competitive disadvantage, even closure.

We are very concerned that health and environmental objectives within the TSAP will not be achievable in practice:

- the TSAP ambition level is still in the steeply rising area of the cost curves where benefit gains are marginal compared with costs and uncertainties pose a significant threat to feasibility;

- Therefore care should be taken in committing Member States to further requirements without being confident that these can be delivered (in particular in the context of the review of National Emissions Ceiling Directive)

5. INTEGRATED POLLUTION PREVENTION AND CONTROL - IPPC

Background

- DG Environment has launched early 2006 the first meeting of the IPPC Advisory Group, which will support the Commission in the preparation of the review of the IPPC Directive
- UNICE ensures the coordination of industry's input into this Advisory Group, which main task is the supervision of 6 studies looking in particular at IPPC impacts on competitiveness and environmental benefits.
- These studies will be the basis for the review of the IPPC Directive scheduled in 2007.

UNICE main messages

- Industry is concerned that this review process is much too premature to secure significant results. Indeed, the deadline for full implementation of the IPPC Directive is set for October 2007 and some of the latest BREFs, underlying permits grants, will only be made publicly available to permit writers and operators in 2006.
- Therefore in order to ensure a good representation of the data and well founded conclusions, the review process would benefit from waiting beyond October 2007 for full implementation of the IPPC Directive, when all operators of existing installations will:
 - a) be operating their plant under IPPC permit conditions;
 - b) have to apply best available techniques (BAT) after the length of time needed to introduce them has elapsed

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