

9 April 2008

**Mrs Catherine Day, Secretary General of the European Commission**

**Meeting with the Alliance for a Competitive European Industry (ACEI) – 9 April 2008**

## **Better Regulation Policy and Energy / Climate Change Package**

### **1. Second Strategic Review of Better Regulation**

- The Second Strategic Review mainly deals with **simplification, administrative burden reduction** and improvements to the **impact assessment** system.
- Overall, ACEI is positive about the Second Strategic Review. **Good progress** on better regulation has been made in a relatively short period of time. There is a positive trend in the preparation and application of impact assessments on regulatory proposals, even though there remains room for improvement. For example, impact assessments are still not fully used as a tool to design better regulation but rather to refine preset policy options. This requires a different mindset with regards to impact assessments. We do appreciate, however, that impact assessments are now carried out **more frequently** and at a **higher level of quality** under the watch of the new Impact Assessment Board. Also, **concrete steps** have been made to reduce administrative burdens on business and simplify existing legislation.
- It is also positive that the Commission is also going to propose **further changes to the impact assessment guidelines** to further improve the system. We are looking forward to react to these proposals.
- There remain some **problem areas**:
  1. The handling of simplification proposals and Fast Track Actions by the Parliament and Council is **too complicated and time-consuming**. It takes years before proposals are adopted and often discussions about the substance undermine the simplification objective.
  2. **Transparency and design of impact assessments should be improved**. Transparent and accessible information about an assessment being carried out is key to raising awareness amongst stakeholders who should all be

invited to feed into the process. This enhances the Commission's chances of receiving information from all sectors and businesses concerned. It is essential that the consultation of stakeholders is organised in a timely and properly fashion before the main policy options are decided and questionnaires are drafted. In various instances the consultation is still done by means of closed questionnaires which direct the answers in a preset direction or may contain questions that are of little relevance for the assessment. Consultation needs to start very early in decision-making process to identify the right policy options which should all be objectively analysed in order to put forward the real best option. The received input should always be **adequately reflected** in the assessment.

- ACEI recommendation:
  - To increase transparency, the **draft impact assessments should be published before the legislative proposal is adopted** to allow stakeholders to address shortcomings in the analysis directly to the Board before it is too late.
  - There should be negotiations with the Council and European Parliament for an inter-institutional agreement to agree a **fast-track procedure** so that simplification proposals can be dealt with more quickly and are not amended in any way that imposes new and additional burdens on business.
- Regarding **independence**, ACEI recognises that the Impact Assessment Board in practice works with great independence. We have to realise though that the workload of the Board will increase a lot this year and that it could have trouble to continue its good work. We should also ensure that good critical oversight of impact assessments continues in the future. We should thus **embed the oversight body in the system** so that it doesn't lose importance when political priorities change. In our view, the best way of embedding the oversight function in the system is to establish an independent agency for quality control.
- ACEI is looking forward to continue working together with the Commission to improve the system. In particular, one member (BUSINESSEUROPE) is planning a **roundtable** with key stakeholders and experts from the Member States, Parliament and Stoiber Group on **3 June** after the meeting of our working group on Better Regulation. Participants from DG Enterprise and the Secretariat General will be invited to informally exchange views at the roundtable.

## **2. Proposal for revision of the Emission Trading Directive: positive elements**

- Positive elements include:
  - **increased harmonisation**, which is visible in the single EU wide cap, in the sector and combustion plant definitions, and in the single new entrant reserve;
  - the fact that a step has been made towards opt-out for **small installations**. However the threshold for including small installations should be raised very substantially above the level of 10,000 tonnes of emissions;

- the proposal's partial **recognition of competitiveness impacts** on EU energy-intensive companies, and of the carbon leakage issue. However, this recognition does not sufficiently take into account the indirect impacts of ETS. In addition it is not clear which criteria will be applied.
- We welcome the fact that the allocation method will take into account the efficiency of different modes of production through the use of **benchmarking**.

### **3. Revision of the Emission Trading Directive: points of deep concern**

#### ***Approach for addressing the competitiveness and the carbon leakage issues***

The responses proposed in Article 10 lack the clarity and efficient timing needed to protect investment within the EU. The planned June 2011 policy analysis following a June 2010 determination of "exposed sectors" is very late and would not aid business planning because it is subject to a 3-yearly revision. So, the question of which industries are particularly exposed to the danger of carbon leakage and how to prevent this phenomena should be tackled in due time before 2011 and should be a decision taken within the regulatory process rather than left to a future Comitology process.

#### ***Full auctioning for all "covered" sectors starting in 2020***

There is little or no clarity on the equivalent measures from our international partners that would trigger a move to such an action.

#### ***Auctioning revenue should be targeted to promote EU business activities in the area of climate change***

Business is the source of the "income" from auctioning and, therefore, it is appropriate that this revenue is used to promote EU business activities in the form of increased R&D, technical improvements, energy conservation and efficiency measures.

#### ***Auctioning certainty***

The modalities and quanta for auctioning must be established by end of 2010 at the latest. Auctions must start to be held in 2011 only for those sectors having not opted for benchmarks.

#### ***Automatic strengthening of targets in the event of an international agreement***

In the event of an international agreement, the proposal foresees an automatic move to a 30% reduction, and a consequential revision of the emission reduction schedule. But the criteria against which such decision would be taken are not clearly defined. For ACEI, any revision of the EU commitments should involve a full re-evaluation of the impacts on individual sectors as well as the "non-covered" sector to ensure that cost-effective emissions reductions are achieved.

In the proposal, there is the considerable discrepancy between the reduction target required of "covered" sector and that of other sectors. The -21% target for industry based on a base year of 2005 means in reality that the covered sector will have been required to already reduce emissions by greater than 30% if related to the 1990 base year.

#### ***JI/CDM credits are severely restricted reducing the cost-efficiency of the ETS***

The proposal contains severe restrictions on the use of JI/CDM credits. Such restrictions limit the ability of EU companies to make cost-effective reductions and

hence the ability of the EU ETS to act as a market-based instrument. Such restrictions will also discourage project development and hence the transfer of environmentally-sound technologies to developing countries.

#### **4. Renewable Energy Policy**

- ACEI acknowledges the **role of renewable energy sources** for tackling the energy and climate challenges. Nevertheless, as it will be extremely costly to reach the EU's ambitious renewable targets by 2020, the directive on promotion of the use of energy from renewable sources must allow for utmost flexibility and market-based instruments to minimise the costs of reaching these targets.
- In order to give Member States the possibility to comply with their national renewable energy targets at minimal cost, ACEI supports **cross-border trading of Guarantees of Origin (GoO)** provided that such a new mechanism is designed with great caution. Free trading of GoO is likely over time to lead to the optimisation of cost for renewable energy production across Europe. National support schemes should however not be disrupted by GoO trading.
- As regards **biofuels**, it is unfortunate that this draft piece of legislation has not been based on an overall assessment of the different policy options available to reach the declared objectives i.e. the reduction of GHG emissions and the promotion of secure energy supplies. Instead, the impact assessment released by the Commission, together with the proposed directive, mainly addresses the optimal, legal way to ensure that the **10% target** is achieved. As a minimum requirement, the Commission should up-date and enlarge the impact assessments, published by the Commission in 2007, taking into account the existing situation and proposed measures and studies carried out in the meantime, including by its own services. The ACEI considers it of the utmost importance to **assess the availability of second-generation biofuels in the next 10 years**, worldwide developments which will have an impact on the possibility of importing agricultural raw materials or biofuels and the impact on sectors currently using raw materials that will be diverted into biofuels production.
- As regards the **10% mandatory targets for biofuels in transport**, we consider that the **EU Summit decisions must prevail**, according to which the targets must be conditional to second-generation biofuels being commercially available and a sustainability scheme operational. Hence, a review clause needs to be introduced that will assess the situation in 2015 at the latest with regard to the above conditions. Finally, there is a need to set up a mechanism that will prevent crisis situations in food markets.
- Given the expected substantial cost increases for electricity and raw materials as a consequence of renewable energy policies, **mitigation measures especially for energy-intensive industry sectors** and sectors exposed to international competition should be developed.

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