BUSINESSEUROPE

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EUROPEAN BUSINESS PRINCIPLES FOR SMART EU ENVIRONMENT POLICY-MAKING

Executive Summary

Europe's future environment policy will have to be carefully designed in order to build on European assets, in particular the ability of businesses to invest and develop innovative products and solutions.

In 2010 and 2011, the European Commission is carrying out an assessment of the 6th Environmental Action Programme (EAP) and a debate is emerging on how it should be followed up.

Although not seeking to address the question of whether or not a 7th EAP is necessary, this document defines the ten principles, which should jointly form the basis for smart EU environment policy-making in the future.

- **Base actions on science** – sound scientific risk assessment and life cycle thinking form the foundations of good EU environment policy.
- **Provide an integrated policy approach** – environmental policies must be fully integrated with other areas such as industrial, trade or energy policy.
- **Stimulate innovation** – companies' ability to generate clean technologies must by reinforced by stimulating an innovation-friendly policy framework.
- **Secure a global level playing field** – environmental regulation must always take into account the regulatory situation outside Europe.
- **Target all actors of society** – government, industry, civil society and the public at large must be mobilised in a balanced and fair way.
- **Comply with single market rules** – more uniform implementation of environmental requirements across Europe must be achieved.
- **Ensure cost-effectiveness** – a close examination of the costs associated with environmental policies is needed in every policy action.
- **Guarantee consistency and predictability** – they are essential requirements for companies' confidence to invest.
- **Promote transparency** – it must be the guiding concept throughout the legislative process to ensure good quality outcome.
- **Think small first** – due attention to the needs and practical realities of SMEs is essential when environmental legislation is being designed.

For each principle, a case study demonstrates the lessons to be learnt from policy measures taken under the 6th EAP.

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Foreword

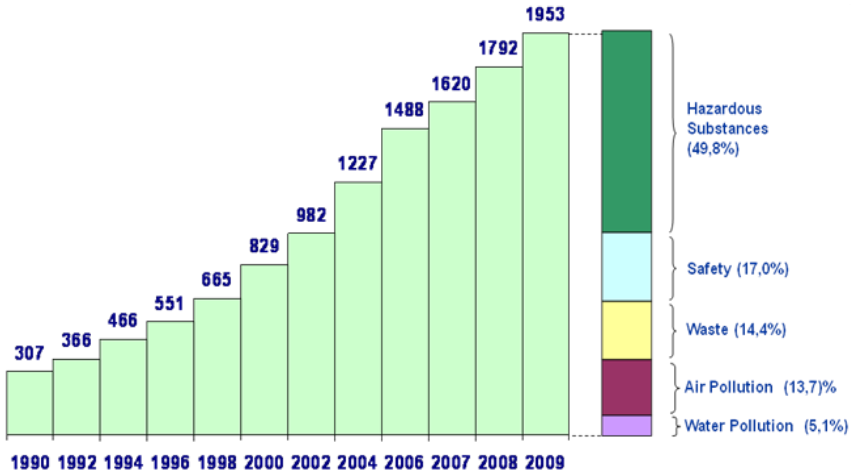
In 2002, the 6th Environmental Action Programme (EAP) defined the broad areas for action in the field of environment policy over a period of ten years (2002-2012). This was the first action programme to be adopted on the basis of co-decision.

In 2010 and 2011, the European Commission is carrying out an assessment of the 6th EAP and a debate is emerging at the European level on how it should be followed up. Although not seeking to address the question of whether or not a 7th EAP is necessary, this document seeks to define the key principles for a holistic approach to future environment policy at the EU level.

The principles set out in this document reflect the experience gained by industry in the last decade in environment policy development and implementation. They are central to the debate on future long-term European environment policy. This is all the more evident if we look at the constant increase in environmental laws (see chart below) and the complexity associated with their implementation at international, European, national and local level.

Europe's future environment policy will have to be carefully designed in order to build on European strengths in the field of environmental technologies while minimising compliance costs. Given the comprehensive environmental legislation *acquis*, smart policy-thinking, to ensure a business-friendly environment and to foster the global competitiveness of European industry in the short and long term, is a necessity if Europe is to reap the full economic and environmental benefits from its position.

Chart: Number of environmental and safety laws* adopted in the EU



Source: Federchimica, 2010
(*) Directives, Decisions and Regulations

Societal and environmental challenges – Industry is a solution provider

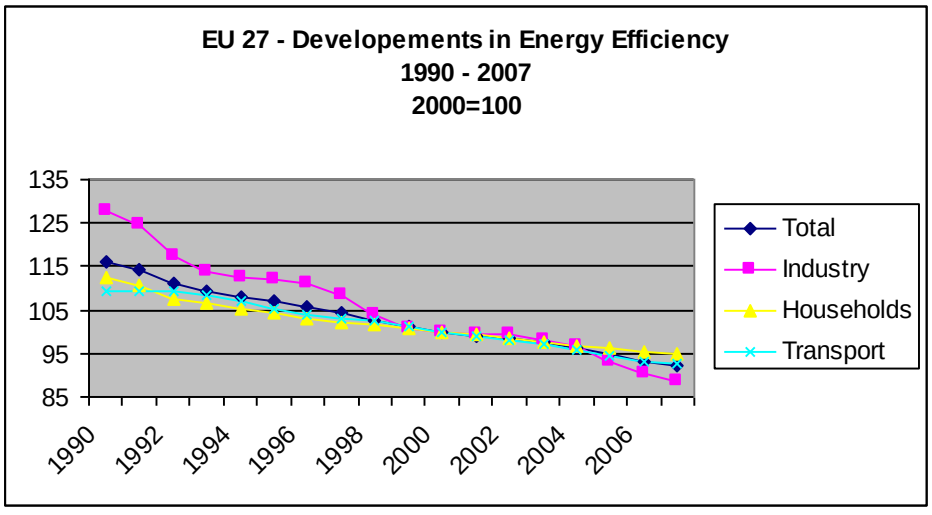
By 2025 the global population will have grown to 8 billion people within an economically and politically multi-polar world. Populations in emerging and developing countries will claim their right to attain the same living standards as the inhabitants of OECD countries. This standard of living must be sustained within the available natural resources and with limited impacts on biodiversity, climate and other ecosystems.

These societal challenges and opportunities cannot be met without a flourishing industry which invests and develops the processes, products and services of the future. European companies are market leaders in many of these emerging sectors.

The European growth model has a number of strong assets such as its capacity to increase its GDP significantly, while material use (biomass, fossil fuels, metal ores and non-metallic minerals) in the EU has stabilised since the 1970s[1].

There can be no doubt that industry will continue to play a leading role in the transition towards a resource-efficient and sustainable economy:

- First, by pursuing its efforts to reduce its environmental impact. In the key area of energy efficiency, for example, European industry has made more progress than any other sector over the last decades.



Source: European Commission

- Second, by developing technologies, products and service solutions, society needs to minimise its environmental impacts. In 2006/2007, the private sector invested €1.66 billion in research and development in non-nuclear Strategic Energy Technology Plan priority technologies of which €0.57 billion came from public national funds and €0.16 billion from European funds[2].

[1] Eurostat, 2010
[2] JRC Reference Reports: R&D Investment in the Priority Technologies of the European Strategic Energy Technology (SET) Plan, 2009.

Ten principles for smart EU environment policy-thinking

In order to be effective, fair and proportionate, Europe's future environment policy must incorporate the following broad principles.

The ten principles are equally important and they complement each other. Consequently, they should jointly form the basis for future environment policy-making.

For each principle, a case study demonstrates the lessons to be learnt from (non-)legislative measures taken under the 6th EAP. The aim is to provide positive and negative examples of policy-making and also to illustrate the complexity of environmental legislation with a view to optimising future European initiatives.

These case studies do not represent an overall assessment of the policy lever in question, they merely express a view on a very specific element. Moreover, for most of the examples cited, it will be some years before we can be sure that a decision or measure was really effective.

1. Base actions on science

Science and assessment of the risks associated with processes and product usage must be at the heart of the system for defining policies. As industry makes an indispensable contribution to the knowledge society, it is essential to have confidence in the information and knowledge it provides.

Businesses are increasingly turning to lifecycle thinking to assess and understand the impacts of processes and products on human health and environment. They work to improve their quality constantly in order to create benefits not only for our lifestyle, but also for our health and the environment as a whole.

To this end, research should be guided by a risk management framework. Sound scientific risk assessment and life cycle thinking must be maintained as fundamental principles of product-related rules in particular (e.g. eco-label). However, it should be targeted to deliver results in areas of most concern over the shortest possible time. Intelligent pursuit of information is key to avoid an unwieldy and overburdened regulatory system.

Case study

The Biocidal Products Directive (BPD) is an example of legislation where excessively high administrative requirements have failed to set up the right framework for scientific analysis and risk assessment. It has resulted in non-implementation of this legislation: since the BPD entered into force in 1998, very few active substances have been reviewed and only a negligible number of biocidal products have been authorised. This contradicts the goals of improving the protection of human health and the environment and of strengthening innovation and competitiveness.

2. Provide an integrated policy approach

Companies today operate in a globalised, vertically and horizontally interconnected value chain. For example, the production of state-of-the-art wind turbines needs sophisticated chemical products like fibreglass. Leading European wind turbine producers aim to grow export markets, which raises questions about the protection of intellectual property rights. In turn, the import of certain raw materials, such as silicon for the production of solar panels, is becoming increasingly costly due to rising global demand.

Therefore policies aimed at achieving environmental goals must be fully integrated with other areas such as industrial, trade or energy policy. All relevant DGs in the European Commission and EU Councils such as Environment, Energy and Competitiveness must be involved. This approach will ensure that the overall consequences of a specific policy measure for all activities and sectors of society are assessed.

Case study

The development of the sustainability criteria for biofuels, following the decision taken in 2007 to work towards a 10% biofuels target in the EU by 2020, is an example of concrete policy integration as the criteria were decided with close collaboration between the energy, transport and environmental services of EU institutions. The purpose of the criteria is to mitigate possible negative environmental and socio economic consequences of biofuels, such as air pollution, deforestation and food price hikes.

3. Stimulate innovation

Innovation is a crucial requirement for economic growth and job creation in Europe. It is also a key element for addressing the major challenges facing society today such as climate change and efficient use of resources. European companies play a pivotal role in that they are solution providers due to their capacity for generating new solutions and inventions in clean and resource efficient technologies and systems.

Europe's position must be reinforced by stimulating an innovation-friendly policy framework, which combines actions such as: developing more private-public partnerships, increasing public and private investments, creating clusters to increase cross-border cooperation, and stimulating demand and markets for innovative products and services.

A continued simplification and streamlining of the regulatory framework for research and development is key as well in order to enhance business participation.

Case study

The EU "Lead Market Initiative" is a step in the right direction as it aims to create better and more innovation-friendly market framework conditions (including regulation, procurement and standardisation) to stimulate markets of high economic value. The European Commission, Member States and industry worked together to carry out the agreed action plans. Yet, progress in implementing the Initiative is rather slow and should be further stimulated.

4. Secure a global level playing field

There must be a global level playing field for production and operating costs, especially for trade-intensive companies, whose products and solutions compete with competitors outside the EU. Environmental regulation must always take into account the regulatory situation outside Europe.

While an early move in smart regulation and standards can provide a long-term competitive advantage, persistently higher production costs in Europe will lead to investments outside the EU by trade-intensive industries. However, these industries often provide the environmental solutions for European society such as light-weight or insulation material. In the case of global greenhouse gas emissions an uneven global playing field can lead to so-called "carbon leakage".

Case study

Electricity prices have constantly risen and are now significantly higher in the EU than in other economic regions. On average, electricity in Europe is 21% more expensive than in the USA and 197% more expensive than in China.[3] *Policies such as subsidies for renewable energy in the form of feed-in tariffs or a CO_2 price on electricity under the EU Emission Trading Scheme, which is passed on by electricity producers to consumers, have contributed to a strong electricity price hike. Comprehensive policies to mitigate the resulting competitiveness distortions are needed.*

5. Target all actors of society

The major challenges facing society, notably environmental challenges, require all actors to be mobilised. For several decades now, industry has mobilised strongly to optimise the environmental impact of its manufacturing processes and the products it places on the market. These improvements are a reflection of combined actions by companies and public authorities.

Given the scale of the challenges that our societies must meet and the associated costs, it is essential that all players in society (government, industry, civil society and the public at large) are mobilised in a balanced and fair way, and that all adopt sustainable behaviours. Without bringing the 'polluter pays' principle into question, it is essential that European policies do more to integrate this notion of balance and fairness in the sharing of the environmental burden.

Case study

In May 2010, the adoption of the recast directive on energy performance of buildings (2002/91/EC) strengthened energy performance requirements. As a step in the right direction, the reinforced legislation calls on the public and residential sectors to play a leading role in improving the EU's energy efficiency. Buildings today account for 40% of the world's energy use.

[3] BUSINESSEUROPE based on 2007 IEA data.

6. Comply with single market rules

The unjustified disparity in the implementation and enforcement of EU environmental legislation (both between and within Member States) leads to distortions of competition. It also results in perverse environmental impacts, notably due to environmental dumping. The costs associated with the implementation of environmental policies, for instance where it involves major infrastructure investments, are significant and often the main drivers.

While efforts have been made over the last decades (e.g. the level of national implementation measures of directives in the environmental field notified to the Commission moved from 91% in 1995 to 97% in 2009[4]), much remains to be done. A proportionate use of the 'polluter-pays' and 'user-pays' principles, across all relevant economic sectors, has a role to play to ensure a more uniform implementation of environmental requirements across Europe.

In addition, improved cooperation among Member States' authorities at national and regional levels will support homogeneous transposition, enforcement and implementation of the EU's environmental *acquis*. This may require a strengthened role for the European Commission to accompany Member States in their efforts, a stronger enforcement mechanism at the EU level and a more ambitious external communication strategy geared towards those who do not have specialist knowledge of the EU and its regulatory framework (including education, promotion of best practices, etc.).

Case study

Good implementation of environmental policies is often directly linked to their integration in other Community policy fields. In the area of water management for example, the integration of the EU's objective in agricultural policy (in relation to water quality and quantity as well as pricing objectives) is paramount to the successful implementation of the Water Framework Directive. Similarly, the integration of environmental objectives in Community funding programmes is a fundamental principle that is not systematically applied and forms a barrier to the thorough implementation of the EU's environmental acquis.

7. Ensure cost-effectiveness

Environmental policies have to be embedded in the economy in order to be successful in the long term and a have positive economic impact. However most of environmental policies imply a transformation of the industrial processes or facilities, changes in products and adaptation for the consumers. All these elements have economic costs: this covers financial investment, extra costs of products or services in an open competitive market as well as possible transaction costs (monitoring, verification, etc.).

While some of these costs can be socialised through incentives or specific financial mechanisms, globally it affects the competitiveness of European industry and its

[4] http://ec.europa.eu/community_law/directives/directives_communication_en.htm

products. Therefore, it is essential to balance these costs with the environmental benefits of every policy action.

A close examination of the costs associated with environmental policies is needed, taking into account the socio-economic specificities of Member States as well as the position of the various sectors and their capacity to develop affordable and competitive solutions. In the case of market-based instruments, the sharing of the burden between Member States and industrial sectors has to consider the equity principle, taking into account opportunities for developing solutions.

Case study

The Waste Framework Directive imposes recycling/treatment of various type of waste (electronics, car parts, oil, paper, etc.). This has generated the development of dedicated waste treatment industries. Furthermore, the financing through mandatory payment to dedicated funds managed by producers has created competitive market conditions, which has enhanced the cost-effectiveness of the policies. A tax approach for instance would not have produced this economic dynamic, and would have run the risk of adding to Member States' budgets. Moreover, based on waste properties and balancing costs with environmental benefits, a flexible application of the five-step waste hierarchy is possible.

8. Guarantee consistency and predictability

Overlaps and inconsistent environmental policies should be avoided. Inconsistency leads to disruption in highly complex global supply chains, legal uncertainty, unnecessary duplication of administrative burden and costs.

Equally, predictability of regulation is an essential requirement for companies for which regulation can engender considerable costs. Companies require confidence in the future to invest and assurance that their investment, many of which require long-term horizons, will not be threatened by unforeseen changes in the regulatory framework.

Both consistency and predictability are particularly important to industrial operators and investors who make investment decisions, with depreciation periods of longer than twenty years in some cases.

Case study

The scope of products covered by the Eco-design Directive and the Energy Labelling Directive has been aligned. While it remains to be seen how it will be implemented, it should provide greater consistency in the methodological work to assess product performance and in the decision-making process for the preparation of implementing measures.

9. Promote transparency

Bearing in mind the complexity of the environmental themes and challenges, fair and effective rules must be developed with contributions from industry and the various

interested parties. To that end, transparency and consultation must be the guiding concepts throughout the drafting process. Only in this way will good quality contributions be obtained from the parties concerned.

Transparency can be shaped effectively by sharing relevant information and releasing institutional agendas in good time as well as by providing feedback on comments made by stakeholders on legislative dossiers. Proper stakeholder consultation requires that deadlines for submitting contributions take into account the need for EU stakeholders to consult their members in all EU Member States.

Case study

Stakeholder access to information on discussions and decisions under comitology procedures in the environmental field is problematic. Key information is rarely made available, such as the lists of committee members, the meeting agenda and minutes. The "Comitology Register" on the internet only offers partial information on past meetings and is therefore not useful to follow up the work that is done by committees. As they are not officially included in the comitology procedure, stakeholders are not in a position to provide the committees with technical input and share their experience and concerns.

10. Think small first

A majority of European businesses are small and medium-sized enterprises (SMEs). The most burdensome constraint reported by SMEs is compliance with administrative requirements. SMEs bear a disproportionate regulatory and administrative burden in comparison with larger businesses. It has been estimated that where a large company spends one euro per employee because of a regulatory duty, a small business might have to spend on average up to € 10[5]. Thirty six percent of EU SMEs report that red tape has held back their business activities over the past two years.

It is essential to pay due attention to practical realities and needs of these companies when coming forward with environmental legislation. EU policy-makers should design rules according to the "Think Small First" principle by taking into account SMEs' characteristics when designing legislation and simplify the existing regulatory environment.

Case study

The revised EU Emission Trading Scheme Directive of 2008 included the possibility for installations which emit less than 25,000 tonnes of CO_2 per year to opt out of the Emission Trading Scheme. While the initial Commission proposal included a threshold of 10,000 tonnes of CO_2 per year, it was appropriately raised during the co-decision process. This opt-out now allows an alternative for SMEs which are not necessarily used to trading and might prefer other equivalent measures to reduce CO_2 instead.

* * *

[5] Report from the Expert Group on "Models to Reduce the Disproportionate Regulatory Burden on SMEs", May 2007.