



* * * Check Against Delivery * * *

20 May 2010

WORKSHOP “BETTER INSTRUMENTS FOR EUROPEAN ENVIRONMENTAL POLICY”

20 MAY 2010, MADRID

**REMARKS BY ELISABETH NILSSON
CHAIR OF BUSINESSEUROPE’S ENVIRONMENT WORKING GROUP**

- Thank the Spanish Ministry for the Environment and Bruxelles Environment for organising this workshop and for inviting BUSINESSEUROPE to contribute.
- European companies have always played and will continue to play a pivotal role for tackling societal challenges such as environmental goals through their innovative products and solutions. Many success stories, for example in energy efficiency, renewable or nuclear energy, carry the label “made in Europe”.
- However, what we are seeing today is that entire industrial sectors are in trouble, and the position of European industry as a whole is in retreat. Between 2000 and 2010, the share of emerging countries in worldwide output increased from 32 to 52%. This demonstrates the need to move towards an integrated EU industrial policy which places development of entrepreneurship at the centre of EU policies. The existing and future EU policy framework in the environmental field must take this fully into account in order to deliver sustainable solutions.
- Today’s workshop raises a very important question for the starting debate around a possible 7th EU Environmental Action Programme: *how can we make policy instruments in the environmental field better?* Of course, the question is not relevant to this field only, but the huge palette of environmental legislation deployed in the last decades, makes it very accurate. To date, 1,271 Community legislative acts are in force in the areas of environment, consumers and health protection. Most of them affect business activities directly or indirectly.



- In some areas, environmental policies can be evaluated fairly positively as they have helped European companies to become leaders in the development of eco-innovative technologies, processes and products – concept of Best Available Technologies. Against this, there is still room for significant improvements in many cases. Too often the applicable legislation is complex if not obscure, procedures deriving from it represent huge compliance costs for companies without clear environmental returns. This may endanger their competitiveness in keeping their products available on the market for the consumer at a reasonable price. Legislation must be workable.
- In general terms, ‘better regulation’ is a central element of the policy for strengthening competitiveness and supporting sustainable growth and employment. Companies need a legal framework that provides certainty and if possible supports their actions. Good progress has been made in a relatively short period of time since President Barroso in 2005 firmly linked better regulation to competitiveness. Now more than ever it should remain a top priority as companies need fewer burdens.
- Better regulation is founded on several “pillars”. Transparency and stakeholder involvement is one of them. Others include:

Improve existing legislation

We commend the Commission for having made simplification an inherent part of any policy revision. A more integrated approach to simplification is important for rendering legislation simpler and clearer. Simplification must deliver a real difference on the ground for business by reducing costs and burdens.

Reduce administrative burden

The annual costs of administrative burdens are estimated by the Commission to amount to 3.5% of EU GDP, 30% of which originate at EU level. Since presentation in 2007 of the administrative burden project to reduce burdens on businesses by 25% in 2012, significant progress has been made in measuring administrative costs generated by legislation and tabling proposals for reduction. It leads to real results in areas where they can be achieved, especially for SMEs. Last year, the Commission



reported a burden reduction percentage of 21% in the environmental field compared with 2007. Given the considerable potential of reducing burdens further, targets should be more ambitious.

Improve quality of new legislative initiatives

Impact assessments are crucial to gain an idea of the cost-effectiveness of proposed regulation, which enables policy-makers to make well-informed decisions. We are pleased to see that this important tool is used increasingly frequently and that significant emphasis is placed on improving the quality of assessments.

It is especially important that these impact assessments consider all costs for business and that these costs are quantified and presented in a clear way in the assessments. As an example, the impact assessment on the climate change and renewable energy proposals failed to properly measure and present the impact on administrative costs. We are concerned that the same might be repeated with the on-going impact assessment studies on a possible emissions trading scheme for NO_x and SO₂.

In addition, it is key that the European Parliament and the Council carry out impact assessment on their substantive amendments since these can completely change the consequences of legislative proposals. Unfortunately, recent examples show that the provision is too often ignored. For instance, the proposal by the Council to include all electrical and electronic equipments in the scope of the directive on the restriction of the use of certain hazardous substances in electrical and electronic equipment ("RoHS" directive) has not been subject to a representative, thorough impact assessment at EU level.

Avoid "double regulation"

A lesson that can be drawn from the 6th Environmental Action Programme is that the issue of consistency of legislation is not yet addressed in a satisfactory way. By replacing about 40 pieces of EU legislation, REACH aimed at providing a fully harmonised framework for chemicals management across the EU. However, a number of recent examples illustrate missed opportunities for establishing the

desired consistency called for by industry. Inconsistencies between REACH, the so-called “RoHS” Directive, the newly revised Eco-label Regulation or the Cosmetics Directive are relevant examples.

- Further to the above-mentioned key principles, better instruments also mean transparent policy-making process and proper stakeholder involvement. Here, two issues require particular attention: i) stakeholder involvement in the impact assessment process and ii) the comitology process.

Stakeholder involvement in the impact assessment process

It is especially important that stakeholders are properly consulted in the impact assessment process.

Between 2005 and 2009, not fewer than 160 impact assessments were carried out in the environmental, energy and industry fields. In our experience, minimum standards for stakeholder consultation are not always respected: i) documents are not always sufficiently clear, ii) relevant stakeholders are not properly involved or their views misrepresented, iii) there is insufficient publicity or time afforded to the process, and iv) feedback on comments made by stakeholders is not always provided. While the Commission seems to be aware of these problems and has improved the guidance on public consultation, there are still improvements to be made.

Comitology process

Another difficulty for the industry comes from decisions made in comitology procedures. Comitology has become a major source of regulation at EU level – a recent publication reports that 50 directives are adopted annually in co-decision against 2,500 implementing measures adopted through comitology. However, the process lacks transparency and business is concerned that the situation could be even more problematic under the new regime introduced by the Lisbon Treaty.

A case in point is implementation of the revised Greenhouse Gas Emission Trading Scheme (ETS) Directive (2009/29/EC). The implementing measures currently

enacted under comitology will strongly influence investment decisions of the industries covered by the ETS. However, the details of what is being discussed between the Commission remain obscure, because no official stakeholder involvement is foreseen in the procedure.

- To conclude, while some progress has been made, environmental legislation at both EU and Member-State levels still need to be improved in terms of volume, simplicity and quality, especially in terms of cost-effectiveness. Not only must each individual rule be cost-effective, it is also essential to ensure that the cumulative burden on environmental legislations remains bearable. This presentation gives some indications about where efforts should be pursued. The European business community is committed to play its role with a view to ensuring an open and well documented debate with all parties concerned.

* * *