

A Non-Paper with commentary on the suggestions received by the High Level Group of Independent Stakeholders on Administrative Burden for the hearing on 12 April 2010 on unnecessary administrative burden for environmental legislation

This non-paper contains a summary of suggestions received in the period between 19 May and 17 July 2009 from stakeholders by the High Level Group on Administrative Burdens for a hearing to discuss additional possibilities for unnecessary burden reduction in EU Environment Legislation. Additional suggestions were selected by the HLG that the group received the past 2 years. The hearing was postponed till April 2010 for several reasons, including logistics and the complex nature of part of the responses. The suggestions themselves can be found on the website of the HLG:

http://ec.europa.eu/enterprise/policies/better-regulation/administrative-burdens/high-level-group/index_en.htm

The paper also combines comments from staff inside the European Commission services and a first position by the HLG-rapporteurs on environment: John Hontelez (lead), Johannes Ludewig and Pekka Pesonen. This commentary is not intended to commit the Commission or the HLG-rapporteurs to a final position on any of the suggestions, but instead to allow for an informed discussion.

This consultation follows earlier opinions produced by the High Level Group covering the work of the Commission to reduce unnecessary administrative burdens, both as part of a rolling programme of simplification, review of the operation of specific pieces of legislation and an Administrative Burden Measurement exercise. These opinions are all presented in the HLG opinion on environment agreed on the 16th April 2009: http://ec.europa.eu/enterprise/policies/better-regulation/files/hlg_opinion_environment_160409_en.pdf

March 24, 2010

Proposer	Legislation	Proposal	HLG	Commission commentary
European Chemical Industry Council	Biocides Directive	<p>1. CEFIC proposes to extend the centralised authorisation to all biocidal products.</p> <p>2. CEFIC also asks for data requirements to be adapted and a guarantee that Member States will not be able to expand these data requirements ad hoc.</p> <p>3. Finally, CEFIC raises the issue of silver used in biocidal applications and the interaction of the ROHS Directive with the biocides legislation.</p>	<p>1. HLG is open for response of stakeholders to the Commission's response and asks stakeholders evidence of admin burden reductions.</p> <p>2. Stakeholders to justify those certain requirements can be removed without impact on ambition and enforcement.</p> <p>3. Issue of scope of legislation is beyond HLG mandate.</p>	<p>An extension of the centralised authorisation to all biocidal products would mean that several thousand products could submit their applications to ECHA. ECHA is not in the position to deal with such workload which would lead to delays and legal uncertainty over the status of such products on the market. In addition, it does not take into account the sensitivity of the Member States with respect to certain biocidal products having direct impact on human health and the environment. ECHA would also not be in the position to carry out the substantive evaluation of the products - this would require an enormous amount of scientific personnel at its disposal.</p> <p>The impact assessment explains why a full centralisation is not the preferred option and justifies the tasks which should be carried out by ECHA. Essentially, Member States wanted to maintain their involvement in the process under subsidiarity and so resisted full centralisation. The proposal took into account the comments of the Member States and other stakeholders received in the stakeholder consultation in May 2008 as well as other written and oral contributions. The explanatory memorandum and impact assessment contain further details of these processes.</p>
Quat-Chem Ltd.	Biocides Directive	<p>4. Exemption of SMEs</p> <p>Quatchem manufacture a biocidal raw material, and are perhaps an extreme example of the adverse effect of on the EU market. With only 0.001% of the market, we potentially face up to € mill to register a single product we have been manufacturing since 1996. Are SMEs expected to simply give up</p>	<p>4. HLG opinion is that “introducing thresholds as an instrument for cutting administrative burdens should be considered in cases where this does not affect the effectiveness and credibility of EU legislation” (1st HLG</p>	<p>The amount of a product placed on the market says little about its risk. The environmental and human health risk depends on hazard (inherent properties of the substance - e.g. is the substance carcinogenic, mutagenic, toxic, etc.) and exposure (depends on the use of the substance). Quantity may be an indicator of exposure but this will also depend on the use pattern. If the biocidal product is used in a controlled system without release, the overall risk is likely to be limited even if it contains very hazardous substances.</p>

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		our rights to the EU market?	<p>Environment report, para 17.f.) Commission staff response shows this is not obvious.</p>	<p>Just because a product is placed on a market by SME does not mean that it does not pose risk to the environment and human health. As all biocidal products are inherently capable of controlling or killing harmful organisms, we must screen all products for their safety, not just those produced by multinational companies.</p> <p>Importantly, regarding the costs of the notification and the participation in the review programme, based on the current Directive the Member States are free to set the fees as they liked. This is one of the things that we try to tackle in the new Regulation where we propose a system based on a harmonised fee structure with reductions for SMEs.</p>
<p>Verband der chemischen Industrie</p>	<p>Biocides Directive</p>	<p>5. VCI proposes a system in which the inclusion of active substances would be company-specific, i.e. only these companies would be allowed to place the substance on the market for biocidal purposes.</p> <p>6. Further, it proposes to register all non-active substances in the product under REACH and replace the authorisation procedure with a simple notification. They argue that there is no need to test efficacy as the competition would take care of that. As an alternative to this system, the VCI asks that the centralised authorisation under the Commission's proposal is available to all biocidal products, ECHA carries out the substantive evaluation of the products subject to the centralised</p>	<p>5. Suggesting restrictions to a market falls outside of the mandate of the HLG,</p> <p>6. See nr. 1</p> <p>7. See nr. 2</p> <p>8. Fees can be considered administrative burden. Whether they are unnecessary remains to be seen. The Polluter Pays applies here: it is justified to require fees that cover the costs of the public authorities to control implementation</p>	<p>The system envisaged by VCI would lead to monopolies in the market with active substances and would pose a significant risk to product availability. Furthermore, it is not possible to replace the authorisation under the Biocides Regulation with the registration procedure under REACH. The authorisation procedure for biocidal products aims for a very high level of safety of these products - each product is evaluated separately and the data requirements are much stricter under the biocides legislation. The registration procedure under REACH does not necessitate the evaluation of each substance and is, therefore, not comparable to the authorisation procedure. If products that are ineffective, but nevertheless hazardous, are allowed on the market, then this would be bad for consumer protection.</p> <p>Concerning VCI suggestions for improvements of our actual proposal, an extension of the centralised authorisation to all biocidal products would mean that several thousand products could submit their applications to ECHA. ECHA is not in the position to deal with such workload which would lead to delays and legal uncertainty over the status of such products on the</p>

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		<p>authorisation and acts as a dispute settlement mechanisms in all other types of procedures (national authorisations as well as mutual recognitions).</p> <p>7. VCI proposes a more flexible approach to frame formulations allowing to completely leave out certain active or non-active substances out of the product. With respect to low-risk products, they criticise the very strict criteria as well as the unclear data requirements and the missing possibility to label these products as low-risk. They also suggest changes to the data requirements for products and deletion of exclusion criteria and comparative assessment provisions.</p> <p>8. Finally, it wants to see lower fees and better implementation of the legislation.</p>	<p>of legislation. The HLG can call upon public authorities not go beyond this, and if they do for strategic reasons, not to call these fees anymore but levies.</p>	<p>market. In addition, it does not take into account the sensitivity of the Member States with respect to certain biocidal products having direct impact on human health and the environment. ECHA would also not be in the position to carry out the substantive evaluation of the products - this would require an enormous amount of scientific personnel at its disposal. For comparison, ECHA also does not carry out the evaluation under REACH - it is the Member States who evaluate the substances on the Community rolling action plan. Concerning the fees, the fees for a centralised authorisation will be higher than the fees for a single national authorisation but this simply reflects the more complex procedures which are required in order to ensure a full harmonisation and decision-making at Community level. It should, however, be noted that the fees in the financial fiche are not final and the actual amounts will only be set in the Fees Regulation to be adopted in the comitology procedure. They will be in line with the Polluter Pays Principle.</p> <p>The suggestions would reduce administrative costs at the expense of compromising the high level of environmental and human health protection and creating legal monopolies. In particular, REACH cannot replace the authorisation procedure under the biocides legislation. Concerning the suggestion to extend the centralised authorisation to all products, the functioning of such system would risk unacceptable workload of ECHA which would in turn lead to an undermined environmental effectiveness.</p> <p>Most of the suggestions of VCI would trigger the need to substantially change the legislation (or amend the actual proposal of the Commission). Some of the minor suggestions (e.g. frame formulations, data requirements, low-risk) could be addressed through changes in the interpretation. As these provisions are implemented by the Member States, they would have to agree with the changes to the interpretation.</p>

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				Has the Commission proposal addressed their suggestions? Yes, most of the suggestions were taken into account when the Commission's proposal was prepared. For example, the impact assessment explains why a full centralisation is not the preferred option and justifies the tasks which should be carried out by ECHA. The proposal took into account the comments of stakeholders received in the stakeholder consultation in May 2008 as well as other written and oral contributions. The explanatory memorandum and impact assessment contain further details of these processes.
Eurochambres	Biocides Directive	9. Requests reduction in costs but is not specific.	9. In general terms the HLG has encouraged the Commission to use stakeholder suggestions to reduce costs. It has understood that the new proposal is doing so substantially	This has been taken up in the Commission proposal.
UEAPME	Biocides Directives	10. Requests reduction in costs but is not specific.	See 9.	These have been taken up in the Commission proposal.
Committee of Regions	Directive 85/337/EEC on the environmental impact assessment	11. The EIA and SEA: “It should be established whether the EIA-duty still has added value for all categories of operators, given all the reporting obligations that operators should comply with at the same time as they apply for a permit and in view of the SEA”.	11. The HLG could encourage to avoid non intended overlaps where this reduces administrative burdens for business.	The 2 Directives address different subjects and are distinct in nature. Of course, there are areas of potential overlaps (and thus burdens). The SEA contains provisions aiming at reducing them (e.g. Art.5(3) and Art.11(3)), but there are some project categories where things are not clear. The relationship between the 2 Directives is a central point in our recent implementation reports. The EIA report has been already adopted: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2009:0378:FIN:EN:PDF (see section 3.5.1) and the SEA one is expected to be adopted in September

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				<p>For the moment, a better interpretation (e.g. through guidance documents) can lead to a better implementation (this is the feeling of national authorities, which underlined that the two processes (EIA/SEA) should be preserved and better distinguished).</p> <p>In the framework of the EIA review, we will certainly consider these points (i.e. better coordination with other directives). However, the problem is that the EIA/SEA Directives respect the subsidiarity principle and the autonomy of national systems; any attempt to harmonize would be likely to be rejected by Member States. In this case, we can simply introduce provisions encouraging MS to improve synergies. An option seems to be the clarification/better definition of the annexes of EIA by codifying it and by introducing comitology. The comitology would aim at the modification of the annexes. For instance:</p> <ul style="list-style-type: none"> - Annex I: revise the project categories requiring an EIA, either by introducing new categories or by adapting the thresholds. - Annex II: again introduce new project categories and introduce thresholds, when available/possible. - Annex III: develop the screening criteria, in order to facilitate the national authorities as regards Annex II projects. - Annex IV: detail the info to be supplied by the developers (e.g. to take into account biodiversity and climate change) <p>The Commission is currently undertaking analyses that will lead to an Impact Assessment with a proportionate assessment of these issues.</p> <p>The CoR will issue an opinion on the EIA (+SEA) Report.</p>
Committee of Regions	Directive 91/271/EEC	12. Reporting obligations should be relaxed for authorities in Member	12. Proposal is too unclear to make a	The contribution by the Committee of the Regions based on a misunderstanding of Directive 91/271/EEC and its related

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	concerning urban waste water treatment	States that comply with the Urban Waste Water Treatment Directive. The minimisation of reporting obligations might be used as an incentive to encourage adequate compliance with regulations.	judgement, and Commission's response gives indication there might be a misunderstanding.-	<p>reporting provisions</p> <p>In order to ensure proper waste water treatment, one needs to ensure: construction of the necessary infrastructure (sewerage systems, waste water treatment plants), and proper operation and maintenance of that infrastructure, in particular the treatment plants.</p> <p>Consequently, reporting obligation under the Directive are twofold</p> <p>a) on the one hand reporting on construction programmes ('implementation programmes', article 17); b) on the other hand monitoring and reporting on the performance of the waste water treatment plants (article 15).</p> <p>On a), the Directive clearly stipulates that updates of implementation programmes to be reported are to be provided "if necessary". Once full implementation is achieved - as mentioned in the paper by the COR for some Member States - there is consequently no further reporting on construction/implementation programmes. This is not only legally set out in the text of the Directive, but established implementation practice by Member States and Commission. However, where construction of the infrastructure is still ongoing (all 12 new Member States have got transition periods for full compliance with Directive 91/271/EEC enshrined in their Accession Treaties, up to 2015 and 2018), reports on progress of the construction of infrastructure are indispensable.</p> <p>On b), proper operation and maintenance of waste water treatment plants after their construction is crucial: on the one hand to ensure that the environmental objectives of the Directive are adhered to; waste water discharges into water rank</p>

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				<p>amongst the most important challenges to the quality of our water resources; and</p> <p>on the other hand to ensure the wise use of EU funding instruments: planning and construction of waste water infrastructure is supported by billions of EUR through the Cohesion Fund and the Regional Development Fund, and it is crucial that, upon completion, the infrastructure is properly operated and maintained. The European Court of Auditors in a recently published report underlined the need for such proper operation and maintenance http://eca.europa.eu/portal/pls/portal/docs/1/2588293.PDF</p> <p>Given the above, these reports seem to provide essential information and not to be unduly burdensome.</p>
Committee of Regions	Directive 92/43/EEC on the conservation of natural habitats and wild flora and fauna and Directive 79/409/EEC of 2.5.1979 on the conservation of wild birds	<p>13. “A more flexible approach to the conservation objective in the Birds and Habitat Directives might be adopted. Such an approach could imply that mitigation and compensation might be permitted at regional level in such a manner as to ensure that the ultimate balance would not have a negative effect on nature as a whole, even though a certain amount of flora and fauna might disappear locally.</p> <p>Clear benchmarks should be set, in relation to which monitoring should take place; additionally, the ECJ case law concerning existing usage should be clarified”.</p>	<p>13. This discussion falls outside the mandate of the HLG, is about the objectives of the directives and the link with administrative burden for business is not clear.</p>	<p>Firstly, the suggestions seem to be very much about the policy actions and to have nothing to do with administrative burdens.</p> <p>The suggested changes are generally changes in interpretation. The suggested interpretation is however incompatible with the objectives of the legislation and the nature of the protection instruments put into place by the legislation.</p> <p>There is little merit to the suggestions, apart from correctly stating the need for establishing clear 'benchmarks in relation to monitoring'. This is however an existing obligation for the Member States in the legislation. An important body of general and sector-specific guidance on the implementation of the directives has already be developed by the Commission.</p> <p>Should comments on the nature legislation be considered, the contribution is not in line with Opinion CoR 22/2009 on a new impetus for halting biodiversity loss. It states for example in para 28: "stresses the originality and strength of the Natura 2000</p>

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				<p>approach, based on close cooperation between scientists and politicians, and which is geared towards the sustainable use of natural resources. It welcomes the designated sites, which cover approximately 20% of Europe's territory"; and calls throughout the text for a strengthening of Natura 2000 (and hence it's underlying legislation) and biodiversity policies rather than its weakening.</p> <p>Statement: "the obligation to conserve flora and fauna is at times applied in a very strict and inflexible manner, without taking into account matters such as the effects of climate change"</p> <p>Comment: Whereas it is correct that the obligation to conserve flora and fauna is applied "in a strict manner" it is incorrect to say that such application is inflexible and does not take into account matters such as the effects of climate change. The conservation of flora and fauna according to the Birds and Habitats Directive actually happens through a number of measures to be taken by the Member States with a considerable degree of flexibility in the transposition and implementation of the directives and while taking into account the socio-economic context and the specific local and regional conditions. The effects of climate change are definitively taken into account while monitoring the conservation status of protected species and habitat types and when designing appropriate measures to protect or restore a favourable conservation status of such species at the local, regional or national levels. There is no obligation in the Directive to take "measures designed to conserve species that simply cannot be saved".</p> <p>Statement: "One could therefore call for the instigation of a more flexible</p>

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				<p>approach, which would offer scope for mitigation and compensation at regional level. The ultimate balance would ultimately not have a negative effect on nature as a whole, even though a certain amount of flora and fauna might disappear locally"</p> <p>Comment: Both, the local and the regional level are important for achieving a favourable conservation status of species and habitats. The Natura 2000 network is a coherent ecological network. It can successfully achieve its objective only if all its elements fully fulfil their ecological function, that means that at the contribution of each individual site of the network to the maintenance of a good conservation status of the protected species or habitat type must be guaranteed. Therefore mitigation measures are always necessary in order to reduce negative human induced ecological effects to the strict minimum. On the other hand, the Habitats Directive already foresees the possibility to provide compensation measures at a regional level. The condition here is that the coherence of the Natura 2000 network is protected. In many cases compensatory measures in the neighbourhood of the site or in a nearby region can also achieve this objective. Where the coherence of Natura 2000 cannot be guaranteed without compensation at the local level, the fact that "certain amount of flora and fauna might disappear locally" would be incompatible with the objectives of the directives.</p> <p>Statement: "It is unclear what points of reference should be applied for the purposes of monitoring both their deterioration and the achievement of objectives."</p> <p>Comment: This statement is incorrect. The reference is always the</p>

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				<p>conservation status of protected species or habitats. The point of reference for the achievement of objectives is the favourable conservation status as defined by the directive. The point of reference for evaluating possible deterioration of a Natura 2000 site is the conservation status of the species and habitat types for which that site was designated at the date of designation of the site as a SCI. Under the species protection regime, the point of reference for monitoring possible deterioration is the date of entry into force of the directive.</p> <p>Statement: "it still remains unclear how to assess if objectives have actually been achieved. This causes considerable legal uncertainty to operators and local and regional authorities."</p> <p>Comment: According to Article 4.4 of the Habitats Directive, the Member States shall designate the Sites of Community Importance as a special areas of conservation establishing priorities in the light of the importance of the sites for the maintenance or restoration, at a favorable conservation status, of a natural habitat type in Annex I or a species in Annex II and for the coherence of Natura 2000, and in the light of the threats of degradation or destruction to which those sites are exposed. Establishing such priorities also includes the establishment of clear conservation objectives with indicators for monitoring their achievement. Legal uncertainty can only be claimed if such objectives and indicators do not exist. In such a case, the resulting administrative burden does not flow from the directive but rather from poor implementation efforts by the competent authorities in the respective Member State.</p> <p>Statement: "A more flexible approach to the conservation objective in the Birds and Habitat Directives might be adopted."</p>

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				<p>Comment: The directives already offer a maximum of flexibility in the approaches for achieving their objectives. Even more flexibility would necessarily lead to a watering down of the provisions of the directive. However, most inflexibility is homemade in the Member States through the national transposition of the directives and the sometimes very strict interpretation by the national Courts. The guidelines that are currently being developed by the Commission in consultation with different economic sectors will contribute to improving the understanding and facilitating the implementation of the directives.</p> <p>Statement: "Clear benchmarks should be set, in relation to which monitoring should take place";</p> <p>Comment: Clear benchmarks must always be linked to the favourable conservation status of protected species and habitat types. It is the responsibility of the Member States to establish such benchmarks at the national, regional and local level, in line with the general definition given by the directive.</p> <p>Statement: "the ECJ case law concerning existing usage should be clarified"</p> <p>Comment: There already exists extensive ECJ case law on "existing usage". That case law is sufficiently clear.</p>
Bavarian State	Fauna, Flora and Habitats and bird	13a Both Directives contain unnecessary bureaucratic reporting requirements. Moreover, they omit the	13a. The aim of this proposal is to considerably change the Directives themselves. The	See above

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	protection Directives	derogations which are provided for in German environmental protection law for agriculture, forestry and fisheries. It is these derogating provisions which make sensible regional solutions possible. Bavaria therefore advocates merging and overhauling both Directives and at the same time greatly simplifying the reporting requirements.	HLG can look into proposals that reduce the administrative burdens, for business, without affecting the nature of the directives. So this is likely to fall outside the scope of the HLG mandate.	
European Vehicle Manufacturers	End of Life Vehicle Directive	<p>14. Annex II on "heavy metal ban" ACEA and VDA raise the point that each revision of Annex II:</p> <ul style="list-style-type: none"> • is costly to the stakeholders for their preparation for the stakeholders' consultation; • that each new revision of Annex II requires a new national law in the MS; and • recommend the change of the legal basis from Art. 175 to Art. 95. <p>15. Also a comment was made on the risk of double regulation with REACH</p> <p>16. It was further proposed that results of a standardized shredder trial in one Member State should be valid pan-European.</p> <p>17. And a demand for fixed assumption methods was made.</p>	<p>14. HLG: given that consultation procedures on changes in Annex II costs time and money for stakeholders, it is advised to indeed, when possible, to group revisions for individual chemicals. Concerning the legal base for this Directive, the HLG does not speak.</p> <p>15. HLG understands that REACH is dealing with chemicals during use, and ELV-directive about after-use. But is interested in response from Commission.</p> <p>16. HLG needs to hear more about this issue.</p> <p>17. HLG needs to hear</p>	<p>EU law does not require the transposition of a Commission's decision into the national legislation. However, the amendment to the Directive resulting from the Decision is to be transposed by all Member State as EU treaty requires Directives to be transposed. MS choose the appropriate legal instrument based on their national legal systems.</p> <p>The claimed administrative burden of 1.5 to 2 million€ for the preparation of the consultation before each adaptation of Annex II which is foreseen by the ELV directive is considered overstated.</p> <p>The legal basis has been decided by the E.P. and the Council when the ELV directive has been adopted. The Commission does not intend to propose a change of legal basis from Art. 175 to Art. 95 as this is not in line with the objectives of the directive which are mainly aimed at environmental protection and not the internal market.</p> <p>Annex I – "Technical Requirements for ELV treatment"</p> <p>The Commission has discussed this point with the MS several times in the last years in the TAC meetings. The state-of-the-art PST is available only in a limited number of MS.</p>

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		<p>Annex I – "Technical Requirements for ELV treatment"</p> <p>18. ACEA and VDA consider that according to the recent technical developments there is no need to dismantle certain parts of an ELV before shredding as Post Shredder Technologies (PST) offer better economic and environmentally friendly solutions, in particular for glass.</p> <p>Implementation report longer than three years</p> <p>19. ACEA and VDA suggest to delete the legal obligation for a tri-annual report on the implementation of the ELV directive or to extend it to five years.</p>	<p>more about this issue.</p> <p>18. Falls outside mandate of HLG: cannot interfere on substance of the Directive.</p> <p>19. Might fall outside scope mandate of HLG, as this could have a negative impact on the enforcement capability.</p>	<p>The treatment requirements of the ELV Directive could be amended according to technical and scientific progress, if justified by an analysis of costs and benefits. Currently, the Commission is looking into the environmental benefits of the PST on glass. If justified by a careful impact analysis Annex I could be amended providing that the choice of removal of glass before or after shredding will be left to the market forces and possibilities.</p> <p>Implementation report longer than three years</p> <p>The reporting obligation of the ELV directive is addressed at MS, not stakeholders. Stakeholders did not provide an assessment of the actual administrative burden reduction.</p> <p>ELV directive follows the same reporting obligations of all waste recycling directives imposed by Council Directive 91/692/EEC of 23.12.1991 standardizing and rationalizing reports on the implementation of certain directives relating to the environment. The Commission needs a regular update on the actual implementation on the ground at national level, in order to assess whether the Directive has achieved its objectives.</p>

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European Vehicle Manufacturers	End of Life Vehicle Directive	<p>Recycling quotas</p> <p>20. ACEA and VDA point out that the quota calculation methods for recycling targets differ in all MS and, consequently, the results for recycling targets are not comparable and, therefore, this requires an additional administrative effort.</p> <p>The stakeholders propose to replace declarations with statistical assumptions based on the results of a standardized shredder trial in one MS that would be valid for all MS.</p> <p>21. The stakeholders also propose simplification by deleting the requirement for quota targets and by introducing approved technologies for treatment of ELVs and material-streams</p>	<p>20. HLG: examples given by stakeholder show that their might be considerable additional admin burdens due to different interpretations (= not the same as goldplating). The Treaty allows for additional ambitions for individual MS, but having different interpretations with no substantial increased impact for environment does not serve the public. So looking for more harmonized applications is certainly something to strive for.</p> <p>HLG recognizes Commission is making efforts to increase harmonization and guidance.</p> <p>21. Falls outside mandate HLG.</p>	<p>Recycling quotas</p> <p>The Commission has carried out an internal analysis and commissioned a plausibility and integrity check of the data to external consultants. The short report of the consultant has already been distributed to the MS. The Commission also presented to the MS the observed problems, mainly in relation to tables 1-3 of the reporting format and also related to quality control and methodology.</p> <p>To assist the MS, the Commission has prepared a draft guidance document which had already been sent to MS.</p> <p>The Commission has set-up a working group with members from MS and industry to assess the situation and propose acceptable methodologies.</p> <p>The targets are a legal requirement that cannot be deleted as they monitor and measure the results of the objectives of the directive. Following the right methodology, they can be easily calculated without any further administrative cost.</p>
CZ Env Ministry	End of Life Vehicle Directive	22. Unify the database of vehicles handed over to treatment operators in electronic form.	22. HLG has already responded to a similar proposal: <i>“costs for business for moving to such a system . These initial costs would reduce the benefits the</i>	

¹ http://ec.europa.eu/enterprise/policies/better-regulation/files/hlg_opinion_environment_160409_en.pdf

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			<p><i>first year. The HLG notes the difference in estimation of the administrative burden between the Commission's estimate with its proposal for revision (€66 million /year) and the Consortium's estimate. It would like to have more clarity on the net benefits of such a system to business given that the Commission's proposal suggests single reporting by each company, rather than reporting in each Member State. (para 15.c. Env Report¹).</i></p>	
<p>European Vehicle Manufacturers</p>	<p>End of Life Vehicle Directive</p>	<p>ELV collection networks</p> <p>23. ACEA and VDA raise the point that MS have interpreted Art. 5 par. 1 of the ELV directive to ensure "adequate availability of collection facilities within their territory" broadly and as a consequence the requirements on area coverage for the collection networks differ in all MS. They further suggest change of the legal basis from Art. 175 to Art. 95 of EU Treaty.</p>	<p>23. HLG: while environmental legislation can be based on art. 175, the EU should strive for harmonized implementation measures where possible and without interfering with the right of MS to go beyond EU ambitions.</p>	<p>Collection networks</p> <p>MS have different landscapes and, therefore, different needs based on which MS are competent and free to choose the appropriate set up of the collection networks according to density population or geographical distance.</p> <p>The legal basis has been decided by the E.P. and the Council when the ELV directive has been adopted. The Commission does not intend to propose a change of legal basis from Art. 175 to Art. 95 as this is not in line with the objectives of the directive which are mainly aimed at environmental protection and not the internal market.</p>
<p>European Vehicle</p>	<p>End of Life Vehicle</p>	<p>ELV directive overlaps with the "Batteries directive"</p>		<p>ELV directive overlaps with the "Batteries directive"</p>

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Manufacturers	Directive	<p>24. ACEA and VDA claim that the two directives overlap and contain legal contradictions leading to unnecessary administrative and financial burden such as:</p> <ul style="list-style-type: none"> the definition of producer; and the requirements on recycling and registration. <p>The stakeholders propose to remove all automotive batteries from the scope of the batteries directive and only ELV to deal with automotive batteries</p>	<p>24. HLG: while environmental legislation can be based on art. 175, the EU should strive for harmonized implementation measures where possible and without interfering with the right of MS to go beyond EU ambitions.</p>	<p>The Commission services have already provided these stakeholders with a detailed analysis, explaining how the two Directives work together and why there is no unnecessary administrative and financial burden.</p> <p>A vehicle producer is also regarded as a battery producer in a Member State under the Batteries Directive if it places the batteries on the market (inside the vehicle) for the first time in that Member State on a professional basis. This is to ensure that there is a producer responsible for all batteries placed on the market. To avoid overlaps, the Batteries Directive states that Member States should avoid any double charging of producers when waste automotive batteries are collected under the ELV Directive.</p> <p>Collection schemes have to be set up where collection of waste automotive batteries is not carried out under collection schemes set out under the ELV Directive such as the removal of the battery from the vehicle during its use-phase. Otherwise the waste automotive batteries need to be collected under the collection schemes set out under the ELV Directive when automotive batteries have been collected together with the vehicle during its end-use phase. The ELV Directive requires batteries to be removed from the ELV at the waste phase. The Batteries Directive requires batteries to be removable during the use phase.</p> <p>The ELV Directive requires the removal of automotive batteries from the ELV after collection, as a minimum treatment requirement. The recycling of the automotive battery counts for achieving the targets of the ELV Directive. Furthermore, the Batteries Directive specifies that the recycling process should comply with the requirements of Annex II of the ELV directive.</p> <p>The heavy metals thresholds of the Batteries Directive apply</p>

Proposer	Legislation	Proposal	HLG	Commission commentary
				<p>without prejudice to the ELV thresholds. Recital 30 of the Batteries Directive reiterates that automotive and industrial batteries used in vehicles should meet the requirements of Article 4 of the ELV Directive. Again, there is no overlapping.</p> <p>Finally, the guidance documents of both directives stress the complementarities of the two directives clarifying the absence of overlapping</p>
Eurochambres and UEAPME	End-of-Life Vehicle Directive	<p>25. On-line system for issuing of certificates of destruction</p> <p>UEAPME and Eurochambres restate the proposal made by the Consortium regarding Article 5, par. 3 on collection systems, issuing of a certificate of destruction and introduction of an on-line system for this certificate of destruction which will be used by all 27 EU MS.</p>	25. See 22	<p>The recommendation is linked to the recommendation already made by the Consortium and the Commission discussed it with the MS in the TAC meeting.</p> <p>The Commission agrees that the proposal can reduce the administrative burden and give the possibility to all EU MS to verify the destruction of a vehicle in another EU MS. However, this can only be recommended to the MS as the realisation of this recommendation is connected to the national infrastructure requiring on-line systems not actually existing in the majority of the EU MS.</p> <p>The Commission also reminds that Art. 5 par. 5 of the ELV directive and Commission Decision 2002/151/EC has ensured mutual recognition and acceptance of certificates of destruction issued in other MS.</p>
Arbeitsgemeinschaft Keramische Industrie (Cerame – Unie-	IPPC	<p>26. The word “or” should be replaced with “and” with regard to the definition of ceramic activities falling within the scope of the Commission's Proposal for a Directive on industrial emissions as below.</p> <p>3.5 Manufacture of ceramic products</p>	26. HLG: Commission has proposed to remove unclarity. Goes in different direction than proposal of the stakeholder (increasing the scope rather than reducing), but this issue might fall outside the scope	<p>The current scope of the IPPC Directive is unclear and leads to inconsistent application of the Directive. It refers to several different criteria (1) production capacity exceeding 75 tonnes per day, and/or (2) with a kiln capacity exceeding 4 m³ and with a setting density per kiln exceeding 300 kg/m³. The term "and/or" is interpreted differently in the Member States leading to inconsistencies in the permitting of similar installations. The main environmental impacts relate to air emissions (in particular NO_x,</p>

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		by firing, in particular roofing tiles, bricks, refractory bricks, tiles, stoneware or porcelain, with a production capacity exceeding 75 tonnes per day and with a setting density per kiln exceeding 300 kg/m ³ .	of the HLG mandate.	<p>SO₂, dust, VOC, HCl, HF).</p> <p>Given the majority of Member States presently apply the 'or' provision in implementing the current IPPC Directive the Commission's proposal proposes to use the word 'or' only. This would lead to a small increase in the number of installations covered by the legislation concerned whilst reducing environmental impacts.</p> <p>The proposal to replace 'or' with 'and' in this case would lead to a reduction in scope from the status quo and would be a significant backward step in environmental protection and cannot be accepted.</p>
Committee of Regions	IPPC	27. The proposed inclusion of new activities within the scope of the Directive increases administrative burden and general regulations should be used instead of permitting for such activities	27. HLG cannot advise on the scope, only about unnecessary admin burdens. Commission has proposed a reduction of admin burden while keeping environmental objective.	<p>On the basis of a cost-benefit analysis, the Commission has proposed to extend the scope of the Directive to include a limited number of new activities. This will deliver in a cost-effective way the reductions in emissions needed to achieve our environmental objectives in particular under the thematic strategies on soil, waste and air pollution. However, an extension of scope has only been proposed where the benefits of doing so significantly exceed the costs as indicated in the detailed Impact Assessment accompanying the proposal.</p> <p>Furthermore, the Commission's proposal includes amendments to promote the use of General Binding Rules by Member States in order to simplify the permitting process for IPPC installations that whilst not removing the need for permit, would allow permits to refer to such General Binding Rules that may be applied across a number of similar activities or across industrial sectors in a similar way to the 'general regulations' suggested in the comments. The Commission believes that this represents the most effective way of reducing administrative burdens for such</p>

Proposer	Legislation	Proposal	HLG	Commission commentary
				activities whilst ensuring appropriate environmental protection is ensured.
Committee of Regions	IPPC	28. The additional monitoring and reporting obligations within the proposal will increase administrative workload and should be rescinded as they add no benefit.	28. HLG: appreciates the efforts and figures of the reduction of administrative burden claimed by the Commission. Is interested in CoR's more specific arguments.	<p>The Commission has done its utmost to streamline the legislation and reduce unnecessary administrative costs at EU level through this proposal. However, studies and discussions show there are significant opportunities to cut administrative costs at a MS level without any changes in the EU legislation.</p> <p>Furthermore, certain new provisions on reporting of compliance are necessary to ensure better enforcement and compliance with the legislation. Improving reporting requirements will increase knowledge of the performance of installations leading to more efficient and earlier detection of non-compliance as well as facilitating more targeted inspection of installations. Such requirements have been designed to avoid unnecessary administrative burden and must be taken in the context of the significant reductions of burdens from the Proposal overall.</p> <p>Overall, the proposal made by the Commission will make a significant contribution to the implementation of Better Regulation and simplification of legislation. The proposal is shown to significantly reduce net administrative burdens (by between €105 – 255 million per year) through actions taken both at Community and national levels.</p>
Committee of Regions	IPPC	29. IPPC It is suggested that the Commission should allow an exemption from the need to have a permit under the Directive and that Directive 2001/81/EC on national ceilings for certain atmospheric pollutants should be amended to adjust its approach and definitions.	29. HLG: cannot judge whether permit is essential for controlling installations.	The Commission believes that the installations that will fall within the scope are of a sufficient size and scale that their activities should be subject to a permitting regime that ensures effective protection of the environment. Measures have been entered into the proposal to facilitate the use of general binding rules that should simplify permitting and reduce administrative burdens. However, the removal of permitting completely would pose significant threats to human health and the environment for installations that would effectively be left unchecked under the

Proposer	Legislation	Proposal	HLG	Commission commentary
				<p>proposal made by the Committee of the Regions in this case.</p> <p>The revision of the National Emission Ceilings Directive 2001/81/EC (NECD) is part of the implementation of the Thematic Strategy on Air Pollution. The proposal to amend the NECD is still under preparation and should set emission ceilings to be respected by 2020 for the four already regulated substances and for the primary emissions of PM2.5 as well. The revision builds upon the evaluation and review of the National Programmes 2002 and 2006, the work performed under the Clean Air for Europe Programme, the Thematic Strategy on Air Pollution, and new scientific and technical work. The revision also takes into account (proposals for) the Community legislation for specific source categories, like Euro 5/6, EURO VI, the revision of the IPPC-directive and the decision of the European Council of March 2007 to reduce the greenhouse gas emissions by 20% and to have 20% renewables by 2020.</p>
Eurochambres and UEAPME	IPPC	30. Commission to emphasise the need to coordinate Seveso and IPPC inspections	30. In its 1st environment report, the HLG advised: <i>The HLG calls upon the Commission to promote this practice to the Member States (para 16.f.)²</i>	<p>The Commission can advise of the possibility to coordinate IPPC and Seveso inspections. However, such coordination must not jeopardise the implementation of either Directive.</p> <p>Furthermore, the Commission's Proposal for a Directive on industrial emissions draws upon the inspection requirements of the Seveso Directive in setting requirements for inspections.</p>
European Chemical Industry Council	IPPC	31. Administrative burdens arising from the IPPC directive are not easily identifiable as it is extremely difficult to distinguish between the various components of the environmental laws.	31. HLG: this demand is very general. Difficult to respond. Commission says adoption of IED will considerably reduce administrative burdens.	The Commission's proposal acknowledges that the present implementation of Best Available Techniques (BAT) suffers from a number of shortcomings and proposes to strengthen the role of BAT and BAT Reference documents within the legal text in order to improve their implementation.

² http://ec.europa.eu/enterprise/policies/better-regulation/files/hlg_opinion_environment_160409_en.pdf

Proposer	Legislation	Proposal	HLG	Commission commentary
		<p>Indeed, requirements under the IPPC directive cannot be considered independently from other environmental legislations such as Air Quality, National Emissions Ceilings or Habitat.</p> <p>Regarding Best Available Techniques (BAT) however, Cefic considers it important to bear in mind that, due to the complexity of procedures, a homogeneous application in all Member states is made difficult, and one can witness many disparities.</p> <p>Administrative burdens must be addressed in order to insure the practicability and the efficiency of the upcoming new text.</p>		<p>Furthermore, the Commission's Proposal incorporates 7 Directives into one single and coherent legal instrument. This is a significant step forward in tackling administrative burden. However, Member States also have a role to play. They must look for ways to reduce unnecessary administrative costs through the practical implementation of the legislation.</p> <p>Overall, the proposal, if adopted, will significantly reduce net administrative burdens at Community and national levels by between €105 – 255 million per year. The Commission will continue to work with Member States on ways to reduce unnecessary administrative burdens whilst ensuring greater levels of compliance with the requirements of the legislation.</p>
IMPEL	IPPC	<p>32. The Impel report submitted provides a number of points of view on the Commission's Proposal for a Directive on industrial emissions. “Most IMPEL members generally stressed their positive views on the changes in the Recast Proposal affecting Practicability and Enforceability”, recognizing the work that had been undertaken to achieve this leading to the streamlining of the current pieces of legislation into a more consistent and practical legal framework on the permitting and</p>	<p>32. HLG: the IMPEL report does not make it explicit which administrative burdens for business it find unnecessary in the current IPPC. It goes beyond the capacities of the HLG to compare in detail the IMPEL advise and the Commission’s text and then to identify itself where IMPEL proposals were not accepted which could lead to reduced (unnecessary) admin burden.</p>	<p>The Commission has considered the report submitted in detail and played an active role in the production of the original document. The report was helpful to stakeholders in the context of the co-decision process.</p>

Proposer	Legislation	Proposal	HLG	Commission commentary
		<p>control of industrial installations.”</p> <p>Diverging views on impact on the proposed status of BAT documents.</p> <p>“Some members also noted concerns on other aspects, such as the proposed requirements concerning permit reviews, monitoring and inspection, while at the same time recognising the need for effective compliance assessment.</p>		
Michelin	IPPC	<p>33.</p> <p>The authorisation process is very long due to the intervention of several interveners in the final decision. If the file was in electronical format (i.e with a website), all the interveners could decide in parallel (and not in series)</p> <p>An electronical file would also remember the data already registered and would thus open a possibility to modify this data.</p> <p>For the follow up of IPPC, web tool would reduce administrative burdens since it could be possible to introduce then the results of emissions, rejects etc. and to compare them to the limit values defined in the authorisation process.</p>	33. HLG: in line with other recommendations we made: Commission to encourage integrated and web-based processes with regards to permitting and control.	<p>1, 2 and 3) The Commission's Proposal for a Directive on industrial emissions aimed to reduce the administrative burden posed by the present legislative system. In particular savings can be expected by encouraging, at Member State level, a combined permitting of installations which are subject to different pieces of legislation at EU level, by simplifying the monitoring and reporting requirements and by moving towards a shared information system and electronic reporting on industrial emissions.</p> <p>Whilst the Commission agrees that Member States should be encouraged to use electronic systems where available, it would be difficult to make the use of electronic permitting systems an actual obligation within the Directive in this case</p>
UEAPME	IPPC	34. The period for reconsideration and updating of permit conditions should	34. HLG: has already dealt with this in 1st environment	1) The Commission's Proposal for a Directive on industrial emissions requires permits to be reconsidered and, if necessary,

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		<p>be specified within the Directive.</p> <p>35. A threshold should be set for waste incineration activities in order to exclude small facilities.</p>	<p>report, where it said: “The HLG calls upon the Commission to advise Member States that re-applications shall only be required where objective circumstances justify a re-application.”</p> <p>35. HLG: is about scope of the Directive, outside scope of HLG mandate.</p>	<p>updated in line with the adoption of a new or updated BAT Reference document (BREF). Where a new or updated BREF has been adopted, Member States would need to reconsider and, if necessary, update the permit to take into account the changes in the BREF document. Given the present timetable for the updating of BREFs it would be expected that such reconsideration would be required about every 8 years.</p> <p>2) The requirements of Directive 2000/76/EC on incineration of waste places certain minimum requirements on the incineration of waste across the EU recognising the significant impact of waste incineration on the environment and human health. The Directive provides for competent authorities to reduce / exclude monitoring for certain pollutants from waste incineration where certain pollutants cannot be released by the incineration concerned. These exclusions are retained in the Commission's proposal for a Directive on industrial emissions and other such provisions have been added. However, given the environmental impacts of waste incineration the Commission's Impact Assessment accompanying the proposal clearly indicates that continued permit requirements are warranted.</p>
CZ Ministry Environment	IPPC	36. Reports on action to reduce admin burden with regards to IPPC	36. Welcomes the report.	
Eurochambres	Future Industrial Emissions Directive	37. Explore further possibilities for cutting unnecessary continuous monitoring of small waste incineration plants, through comitology during the coming years.	37. HLG: request has already been taken into account by Commission in its new proposal.	The issue of removal of continuous monitoring for Nox, heavy metals, dioxins and furans from small incineration plants was considered in the Commission's proposal, impact assessment and discussions in the Council and European Parliament: see below. The final proposal represents the end point of those discussions. The Commission's proposal includes in Article 68 the ability to amend certain parts of the annexes to scientific and technical progress in future through comitology. This includes the Annex on monitoring for waste incineration and co-incineration.

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				<p>Consequently, the Eurochambres suggestion to maintain this ability in the future is also shared by the Commission. With regard to the specific changes to measurements for certain categories of plants, the Commission considers that any such proposal at this time would be premature without having collected evidence of the impacts that such a change would have. Further exploration of this may be considered in future under the framework of the Commission's proposal.</p>
<p>Danish Government</p>	<p>IPPC and Directive on Incineration of Waste</p>	<p>38. Exemption from the requirements of continuous measurements on waste incineration plants and waste co-incineration plants with a nominal capacity of less than 6 tonnes per hour. The authority may decide not to require continuous measurements for NO_x, total dust, TOC, HCl, HF and SO₂ and require periodic measurements or no measurements when the waste fractions are homogenous and well defined – typically arising in the industry.</p> <p>39. The sampling time for dioxins and furans is proposed to be 30 minutes to 8 hours like for heavy metals. This will make the measurement of dioxin a lot more cost effective and will not have a negative effect on quality.</p>	<p>38. HLG: is likely to fall outside scope of HLG mandate.</p> <p>39. HLG: is likely to fall outside scope of HLG mandate.</p>	<p>The comments made by DK have been considered within the Council and been criticised by other Member States and hence they are not in the Council's amendments in the political agreement reached in June. Furthermore, the suggestion that the European Parliament and DK have attempted to add text concerning the adoption of criteria to reduce monitoring of dust from waste incinerators is incorrect. The European Parliament deleted the relevant text from the Commission's proposal that provided such provisions, preferring instead to simply insert provisions without adequate cost/benefit analysis</p> <p>1) The Commission's Proposal provided certain derogations from monitoring for waste incinerators of less than 6 tonnes per hour. These measures allow the competent authority to decide not to require continuous measurements for NO_x and periodic measurements of heavy metals, dioxins and furans in existing waste incineration plants with a nominal capacity of less than 6 tonnes per hour or in existing waste co-incineration plants with a nominal capacity of less than 6 tonnes per hour if the operator can prove on the basis of information on the quality of the waste concerned, the technologies used and the results of the monitoring of emissions that the emissions of NO_x can under no circumstances be higher than the prescribed emission limit value.</p> <p>Unlike the measures proposed by the Commission to reduce the burden posed by monitoring based on the fact that the incinerator</p>

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				<p>/ co-incinerator concerned can under no circumstances lead to emissions the applicable emission limit value the blanket exemption suggested by Denmark in this comment is not based on such a requirement. Instead, exemptions would be allowed even though the applicable emission limits may still be able to be breached. This is entirely unacceptable given the potential impacts on human health and the environment of such waste incineration.</p> <p>Please note that when it comes to the risks of pollutants from incinerators the size of them does not matter. Very small quantities of for example dioxins or asbestos can kill people and ruin agricultural fields for producing milk etc. Exemptions for small emissions can still be serious for health and the environment.</p> <p>2. The measures related to monitoring of dioxins and furans have been set in order to ensure the effective control of emissions of these harmful substances. As stated above, the Commission's proposal includes measures to reduce monitoring frequency for certain categories of installation. However, the measure proposed to change the monitoring period would pose a significant environmental threat whilst providing little cost savings.</p>
Eurochambres, Jade, Sme Union	REACH/CLP Regulation [CLP = Classification and Labelling Inventory]	40. Replace registration obligations for recovered substances which are not the same as the original substance, with a simplified notification obligation, arguing that they have all the safety information to ensure REACH demands are met. Claims a 15-18 million Euro/year saving potential.	40. HLG: Eurochambres say initial response of HLG was not based on correct reflection of the proposal. Wants to hear discussion. 41. HLG: Wants to hear discussion. 42. HLG: see its first report,	First bullet: If they produce a different substance then it is difficult to exempt certain manufactures from REACH due to the production method. Furthermore, if they have the safety information needed to ensure the REACH demands are met, then the additional cost REACH makes on top of the suggestion, is that the information which is available is submitted to ECHA. The advantage is that the substance can be said to be REACH conform. Second Bullet: This was discussed at length in co-decision. A

Proposer	Legislation	Proposal	HLG	Commission commentary
		<p>41. CLP - add tonnage threshold for reporting to the Classification and Labelling inventory</p> <p>42. REACH - the IT system used by industry for implementing REACH (so-called REACH-IT) should be in all community languages.</p>	<p>where it urged the ECHA to provide its information as soon as possible in all EU languages.</p>	<p>company who earns a profit by placing a very low volume of substance on the market after having collected data, assessed the data, applied the CLP criteria to the data, reached a conclusion on the classification, determined the appropriate precautionary statements, developed and printed the label for the container of the substance, developed and printed the safety datasheet for the substance and implemented sufficient risk management measures ion site for handling the substance, will, with a marginal additional cost, be able to submit the result of the classification via the internet to the ECHA.</p> <p>Third Bullet: We agree in principle, but this is subject to resource restraints and priorities of ECHA.</p>
<p>European Chemical Industry Council</p>	<p>REACH</p>	<p>43. REACH should be the centre piece of chemicals legislation and should precede other sectoral or compartment specific legislation This also to overcome duplication of information requirements or procedures.</p>	<p>43. HLG: cannot distil an advise on this related to unnecessary admin burden. Can only advise the Commission to avoid unnecessary difference of definitions etc.</p>	<p>We see it the other way around. REACH provides a baseline of protection (based on 'no unacceptable risk') for all areas no covered by other legislation. Other legislation has justifiable additional or more protective aims (e.g., water: pollution prevention and reduction, even below the level of 'no unacceptable risk', waste: minimisation of waste, increased recyclability, even if there is no 'no unacceptable risk', Toys/Cosmetics: Precautionary approach towards some substances were the uncertainties in risk estimation are higher [CMRs]). We do agree that if risk assessment is the basis of a decision, then harmonisation with the methodologies in REACH should be aimed at.</p> <p>Proposal would not affect administrative costs.</p>
<p>UK Federation of Small Businesses</p>	<p>REACH</p>	<p>44. Reduce the burden of REACH on importers</p>	<p>44. HLG: proposal impacts objective of the legislation. Outside our mandate</p>	<p>If importers are treated more leniently than EU manufacturers, then we benefit them vis-à-vis European producers. These differences could possibly induce EU industry moves abroad whilst not protecting the environment and human health.</p>

Proposer	Legislation	Proposal	HLG	Commission commentary
Danish Government	Regulation concerning Export and Import of dangerous chemicals	45. Delete info necessity importers in Regulation	45. HLG: wants to know more.	<p>The Regulation implements the Convention, which deals not only with exports but also with imports. The Regulation clearly focuses on exports and has no obligations as regards imports except the requirement for establishing import responses. Information on imports is important so as to get an overview on compliance with the import responses and on trade in chemicals listed in the Regulation.</p> <p>The administrative cost to business seems minor and was not an issue when this piece of legislation was recently amended.</p>
UEAPME and Zentralverband des Deutschen Handwerkers	Regulation on certain fluorinated greenhouse gases	46. Excess burden and costs from training and certification (Art 5)	46. HLG: calls upon Commission to work with MS to reduce the burden by identifying and spreading best practice.	<p>The Regulations governing training and certification: 303,304,305,306,307/2008 were adopted in April 2008 with a specific objective of minimising administrative and compliance burden. They put in place common minimum requirements for training, which are mutually recognised between Member States – requirements which are a central tool to achieve the purpose of the Regulation to cut the release of fluorinated GHGs.</p> <p>The Regulations are recent: Member States have only recently put them in place. The Commission is monitoring implementation and welcomes information like this about problems in Member States. The Commission would like to know the sectors involved in this case.</p>
UEAPME and Eurochambres	Regulation on substances that deplete the ozone layer	47. Art 12, p 1 and 3: Have 3 year export authorisation instead of one year	47. HLG: Agrees with Commission that in this sector moving from 1 to 3 years can reduce the level of enforcement.	<p>A three year authorisation would present greater risk, running counter to one of the objectives of the revision of the Regulation which was to reduce the risk of illegal or unreported trade. As authorisations tend to be for individual consignments, a longer authorisation period would reduce the traceability of consignments – which in turn would be likely to increase the burden for customs authorities, and then exporters and importers, in tracing the provenance of consignments.</p> <p>Unnecessary burden on export licensing is to be cut by provisions</p>

Proposer	Legislation	Proposal	HLG	Commission commentary
				introduced in Art 18, which foresees harmonised licensing for exports and imports and a move to paperless licensing. This move to paperless licensing is designed to be aligned with modernised customs systems.
UEAPME and Eurochambres	Regulation on substances that deplete the ozone layer	48. Art 19. para 1: Streamline whole system of sending reports and information	48. HLG: this has been taken up already, proposal is outdated. -	The revised Regulation attempts to reduce double reporting. It also envisages electronic reporting which will be introduced on-line along with the licensing authorisation system. The preparatory work for the system's design and implementation is underway and the system is on-track to be delivered in 2012.
Eurochambres	RoHS	49. Unnecessary new information obligations in the RoHS legislation should be avoided. The restriction of substances should be dealt exclusively by REACH. The scope of RoHS should not be expanded. All present restrictions from RoHS should be transferred to Annex XVII of REACH.	49. HLG wants to hear the discussion	The Commission agrees that unnecessary information obligations should be avoided. However, the stakeholder recommendation is not further explained or quantified in the submission. The RoHS Directive does not foresee explicit reporting obligations for Member States or from manufacturers to Member States. This has been maintained in the recast proposal, while aligning the requirements and procedure for exemptions with REACH. All present RoHS restrictions cannot simply be transferred to REACH because RoHS and REACH have different objectives. RoHS restricts the use of hazardous substances in electrical and electronic equipment in view of facilitating the waste management of such equipment. However, in order to avoid unnecessary administrative and financial costs, the Commission has in the recast proposed a new mechanism for introducing potential future substance bans fully in line with the REACH methodology. This measure ensures consistency between RoHS and REACH, while taking into account the specific nature of RoHS in relation to the waste phase of electrical and electronic equipment. No new substances for restriction have been proposed to be included in the scope of RoHS. REACH requires the Commission to carry out by June 2012 a review of the scope of REACH with a view to propose an amendment of the scope of REACH, in relation to other EU legislation, if appropriate
Competent authority for	Seveso	50. supports idea of sending updates of notifications through websites, as the	50. HLG: thanks for support.	The comments from the UK HSE support in principle the HLG proposals. The issues identified are the kind that MS will need to

Proposer	Legislation	Proposal	HLG	Commission commentary
Seveso		HLG has proposed		consider in deciding how best to implement those recommendations.
Eurochambres	Seveso	51.online administration + combining inspections	51.HLG: already dealt with in first env report, para 15f.	The Commission also supports this suggestion.
Michelin	Seveso	52. Common database relating to dangerous waste	52. HLG: does not understand proposal, link to Seveso.	The comments from Michelin are difficult to interpret as they seem to refer to Seveso-export of dangerous waste and the need for a simplified procedure for export of dangerous waste. There is no such procedure under the directive.
Waste Watch & Green Alliance	Seveso	53. Sending notification by Internet fine, but take interests of non-internet users into account.	53. HLG: basically supports HLG april advise. Right to access to information is not directly in mandate HLG>	The comments from Waste Watch basically support the HLG proposals. Their one concern is that in their view electronic submission of notifications would not adequately satisfy public information requirements as non-internet users would not have access to the information. It is unclear what they have in mind by proposing that "information should be give as 'point of contact'". In any case, the concern seems misplaced. The current information obligation (Article 6) does not require public access to the information. Other provisions of the directive (Articles 13 and 20) deal with the general issue of information to the public and are unaffected.
Eurochambres	European Waste List, Waste Shipment Regulation, Waste Statistics Regulation	54. Eurochambres welcomes the ongoing review of the European Waste List as a step in the right direction. In addition, it suggests to subsequently carry out an assessment with a view to align further coding (classification) schemes for waste, in particular, the Waste Shipments Regulation and the Waste Statistics Regulation. Moreover, efforts at international level (OECD, Basel Convention) could be required.	54. HLG: potential savings is very small, process to get there seems cumbersome, but want to hear the debate.	The possibility to align the European Waste List with the codes of the Basel Convention/Waste Shipment Regulation has been analysed in a study and discarded: there was a consensus among stakeholders that the adaptation would have been too burdensome for the users (both private and public sector). The same applies to an alignment of the European Waste List with the classification according to the Waste Statistics Regulation. In addition, it has to be taken into account that, for statistical purposes, a classification at an aggregate level is sufficient. Given that an alignment does not appear to be a viable option, the

Proposer	Legislation	Proposal	HLG	Commission commentary
		Estimated cost savings 100.000 Euro/year		<p>Commission has already proposed during the TAC Meeting of 8 July to develop an EU correspondence list that translates List of Waste codes into codes according to the Basel Convention. The correspondence table shall allow for an electronic processing, thus facilitating its use by the private sector and public authorities. Do not understand: what is the difference between aligning and translating???</p> <p>As regards additional codes, it has to be noted that they are only applied by some Member States and often regarding a limited number of specific waste streams. In the framework of the current review of the List of waste, it is intended to achieve a further alignment that will render additional national codes superfluous.</p>
Danish Government	Incineration of Waste	54a. Exemption from the requirements of continuous measurements on waste incineration plants and waste co-incineration plants with a nominal capacity of less than 6 tonnes per hour. The authority may decide not to require continuous measurements for NO _x , total dust, TOC, HCl, HF and SO ₂ and require periodic measurements or no measurements when the waste fractions are homogenous and well defined – typically arising in the industry.	54.a. The response from the Commission seems reasonable: a blanket exception just on the basis of the size of an installation seems to undermine the purpose of the Directive. Exceptions can be given in cases where it is proven this will not lead to increased risks for public health and/or the environment.	<p>1) The Commission's Proposal provided certain derogations from monitoring for waste incinerators of less than 6 tonnes per hour. These measures allow the competent authority to decide not to require continuous measurements for NO_x and periodic measurements of heavy metals, dioxins and furans in existing waste incineration plants with a nominal capacity of less than 6 tonnes per hour or in existing waste co-incineration plants with a nominal capacity of less than 6 tonnes per hour if the operator can prove on the basis of information on the quality of the waste concerned, the technologies used and the results of the monitoring of emissions that the emissions of NO_x can under no circumstances be higher than the prescribed emission limit value.</p> <p>Unlike the measures proposed by the Commission to reduce the burden posed by monitoring based on the fact that the incinerator / co-incinerator concerned can under no circumstances lead to emissions above the applicable emission limit value, the blanket exemption suggested by Denmark in this comment would contain no such requirements. Instead, exemptions would be allowed even though the applicable emission limits may still be able to be</p>

Proposer	Legislation	Proposal	HLG	Commission commentary
				<p>breached. This is entirely unacceptable given the potential impacts on human health and the environment of such waste incineration.</p> <p>2. The measures related to monitoring of dioxins and furans have been set in order to ensure the effective control of emissions of these harmful substances. As stated above, the Commission's proposal includes measures to reduce monitoring frequency for certain categories of installation. However, the measure proposed to change the monitoring period would pose a significant environmental threat whilst providing little cost savings.</p>
Datec Technologies Ltd.	Shipment of Waste	55. Some Member States do not charge for notifications while the UK charge sometimes over 1,500 British pounds sterling for one notification. There should be a uniformity of charges throughout the EU	55. HLG: fees for notifications respond to polluter pays principle. Commission is called upon to act when there are indications of over-charging	The administrative burden identified by the stakeholders is linked to the national application of the EU waste shipment regulation. According to the EU waste shipment regulation (Article 29) the administrative costs for implementing the notification systems shall be "appropriate and proportionate" (Article 29). However, beyond this provision the Commission does not intend to introduce any harmonised requirements for the notification charges to be imposed by Member States. Nevertheless, in a specific case where an operator does not consider the requirement in Article 29 to be fulfilled, he can bring this case to the Commission's attention in order for the Commission to assess how the Member State concerned has fulfilled the requirements.
Datec Technologies Ltd.	Shipment of Waste	56. Although not directly linked with administrative burden, the fact that certain companies ship waste illegally creates an uneven playing field. Fines should therefore be introduced that result in sufficiently large punishment in order to deter such companies from illegal shipments. For example, a fine should reflect a percentage of the	56. HLG: sympathetic proposal, but fines for violations of law cannot be considered administrative burden. So falls outside our scope.	The EU waste shipment regulation requires that Member States lay down the rules on penalties applicable for infringement of the provisions of the regulation and takes all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive. Member States shall notify the Commission of their national legislation relating to the prevention and detection of illegal shipments and penalties of such shipments. (Article 50 of the regulation). The Commission will ensure that these provisions are properly applied. However,

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		annual turnover of a company		when assessing whether the penalties concerned are effective, proportionate and dissuasive it may not always only be relevant to take into account the company's turnover but also in particular, the gravity and extent of the illegal shipments and their seriousness in terms of impact on environment and health.
Eurochambres and UEAPME	Shipment of Waste	<p>57. General call for reductions of burden from notification of shipments; call for greater use of EUDIN like electronic tools.</p> <p>58. specific demand not to have to mention all facilities involved</p> <p>59. required confidentiality is complicated</p>	<p>57. HLG already proposed in first environment report, para 15.b.</p> <p>58. HLG: change could reduce enforceability of law.</p> <p>59. HLG: Welcomes the Commission's initiative to study ways to reduce the admin burden of Annex VII and asks to be informed about the outcome.</p>	These suggestions are covered by the work of the Consortium and previous HLG consideration.
Eurochambres	Shipment of Waste	60. Comments on Annex VII-form and information requirements for shipments of 'green-listed' waste	60. HLG: appreciates comments from Eurochambres that electronic format of Annex VII could reduce administrative burdens much more than the notification form. Supports to focus on that and ask the Commission to see whether the argument that promoting an IT system	<i>Comments under UK Government suggestion below</i>

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			<p>with high investment costs for public authorities outweighs the resulting admin burden reduction for business, and seek possible solutions for these costs, including by a gradual re-collection through fees.</p>	
<p>UK Government</p>	<p>Shipment of Waste</p>	<p>61. Administrative burden with <u>the Annex VII-form</u> and information requirements for ‘green-listed’ waste shipped for recovery should be reduced by <u>encouraging Member States to use an electronic version of this form rather than the notification documents</u> applied to hazardous waste and waste for disposal: the HLG’s and the Consortium’s recommendations only concerns the notification document and not the Annex VII-form. 14 million tons of ‘green-listed’ waste is exported from the UK annually and the amount is increasing while notified waste to and from UK only amounts to some 100,000 tons annually. (UK).</p> <p>In fact, the UK Govt argues AGAINST the HLG advise for an IT system for notified waste shipments, as being very costly for public authorities and covering a small section of total waste movers.</p>	<p>61. HLG: not clear what this has to do with admin burden for business. Seems to be matter between Commission and MS.</p>	<p>1. Annex VII contains important requirements in order to ensure the traceability of waste, in particular in light of indications of environmentally hazardous handling also of 'green-listed' waste in non-OECD countries. In order to make a detailed analysis of the application in practice of Annex VII, identify the main problems and propose solutions, e.g. guidance, the Commission published a call for tenders on 16 May 2009 (service contract on assessment and guidance for the implementation of EU waste legislation in Member States, 2009/S 94-134162). This call for tenders includes the procurement of a detailed analysis of the implementation and enforcement of Annex VII and Article 18 of the regulation. In addition, the consultant should identify the main problems and propose solutions, taking into account the impacts (environmental and economic) thereof. On this basis, the consultant should make proposals for EU guidance on the application of Annex VII and Article 18. In particular, the guidance should indicate how to apply Annex VII in several practical situations, such as for example container shipping.</p> <ul style="list-style-type: none"> • Member States and competent authorities should be encouraged to use electronic versions of the Annex VII-form, as well as of the notification documents. For this purpose, the Commission seeks to cover both types of electronic systems when examples are presented of electronic exchange-projects at the regular EU waste shipment correspondents meetings.

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		<p>Some specific aspects of the Annex VII-form are difficult to comply with for industry and to enforce by authorities: this concerns the confidentiality requirements and the requirement to have the form signed by receiving facilities. <u>Further analysis should therefore be undertaken on the costs and benefits of applying the form itself</u> (UK, Eurochambres, UEAPME).</p> <p>2. Export to non-OECD countries The requirements in Article 37 of the regulation are burdensome: information is requested by the Commission from each non-OECD country and afterwards listed in a Commission/DG Trade regulation. This procedure is time-consuming, has resulted in inaccuracies, many non-OECD countries do not respond to the Commission's requests. Many non-OECD countries also apply additional procedures, e.g. China. Therefore, a simpler and more responsive system should be devised which lists the controls of non-OECD countries. Controls requested by non-OECD countries should not be listed in the regulation but in a different instrument (UK).</p>		<ul style="list-style-type: none"> The regulation itself also foresees in its Article 26(3) the possibility to use electronic versions of the Annex VII-form. <p>2. The initial problems that occurred when the first Commission/DG Trade regulation was adopted appear to have been eliminated or at least significantly reduced. Responses are more accurate and the system seems to work better now. The application of the Commission/DG TRADE regulation is regularly scrutinised and discussed by the Commission, Member States and stakeholders several times per year (EU waste shipment correspondents). Regular updates of the regulation are provided by the Commission.</p>
GlaxoSmithK	Shipment of	61a	61a. From the answer it	The WSR implements the provisions of the Basel Convention and

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line	Waste	- Reduce time to grant permits for trans-border shipments - Streamline approval to ship waste	seems that the EU legislation is following an international rule. Member States are free to work faster, but cannot be forced to do so. Commission could be advised to look with Member States, on a voluntary basis, to speed up permitting processes without compromising the necessary care.	of OECD Decision C(2001)107. This OECD Council Decision includes concrete provisions on the deadlines for notifications which may not be violated. However, it is up to Member States to increase the speed of notification processing.
Danish Government	Shipment of Waste	61b DK proposes that a joint electronic interface for the exchange of data for electronic transposition between European Member States is developed. This could reduce the administrative burdens for both companies and authorities in the Member States.	61.b. Appears the Commission has been acting on this already.	DG ENV has already encouraged MS at the regular meetings of the correspondents pursuant to Art. 57 of the WSR, to establish electronic platforms for data interchange in the area of WS. A number of presentations on concrete systems applied were presented in these meetings. DG ENV foresees to also remind MS via a formal letter to the Permanent Representations about the benefit of establishing such electronic systems and to encourage them to proceed with this option.
Committee of Regions & UEAPME	Waste Framework Directive	62. Comments on the definition of waste • Defining a material as waste or non-waste decides whether the holder of the material has to comply with waste legislation for its further treatment. Art 5 (By-products) and 6 (End-of-waste) of the new Waste Framework Directive might influence the scope of waste legislation by setting criteria for materials which have not to be submitted to waste	62. HLG: proposal seems to be to reduce admin burden under this Directive by more sharply defining when a substance is actually waste or not. So the real issue is the scope, which is not under HLG's mandate. However, it welcomes the efforts of the Commission to clarify more precisely which substances fall under this Directive.	Art 5 WFD enables the Commission to set in comitology criteria for the acknowledgement of certain material as a by-product of a production process rather than as waste. The substantial provisions in Art 5 are reflecting the ECJ case law on by-products. Thus setting such criteria in comitology would not restrict the scope of waste management law, but only improve legal certainty. Whereas Art 6 does actually allow restricting the scope of waste legislation, and thus reducing administrative burden, by setting in a comitology procedure end-of-waste criteria for certain recovered materials. DG ENV has therefore foreseen the establishment of end-of-waste criteria as a priority measure to implement the WFD. The Environment Council on 2 March 2009

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		<p>legislation.</p> <ul style="list-style-type: none"> It is suggested to speed up the further elaboration of Art 5 and 6 and to consider the reduction of administrative burden in a revision of the Waste Framework Directive "in a few years time". 		<p>has asked the Commission to accelerate this process in order to support recycling markets which are suffering under the economic crisis. After discussions with the committee of the Member States the Commission started preparations for end-of-waste criteria for ferrous scrap metal, aluminium scrap metal, copper scrap metal, paper and glass. This work is supported by the JRC and working groups with experts from Member States and stakeholders.</p> <p>The impact of end-of-waste criteria on administrative burden will be considered in the relevant Commission studies.</p>
UEAPME	Waste Framework Directive	<p>62a</p> <p>Setting minimum thresholds for the delivery of permits for businesses carrying out activities in the field of recovery and final disposal of waste</p>	<p>62a. HLG opinion is that “introducing thresholds as an instrument for cutting administrative burdens should be considered in cases where this does not affect the effectiveness and credibility of EU legislation” (1st HLG Environment report, para 17.f.)</p>	<p>A minimum threshold would reduce the environmental benefits of the Directive. It would also create a strong incentive for small volume activities, unfairly competing with the larger activities.</p>
Catering Equipment Suppliers Association	WEEE	<p>63. All equipment sold to businesses should not be in the scope of the WEEE Directive, especially commercial catering equipment should not be in the scope. (European Federation of Catering Equipment Manufacturers)</p>	<p>63. HLG: might fall outside mandate of HLG.</p>	<p>Excluding B2B equipment from the scope of the Directive would imply a significant reduction of environmental ambition level and is therefore not proposed by the Commission. Electrical catering equipment, including for commercial purposes, is included in the scope of the current Directive (as household appliances), except where it is viewed as a "large scale industrial tool". The Commission proposal clarifies that "equipment which is not intended to be placed on the market as a single functional or commercial unit" would not fall into the scope of the Directive.</p>

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Czech Government	WEEE	<p>64. The deadlines for submission of information from the Member States to the Commission (Art. 12(1) and 12(2) of the current Directive) should be unified.</p> <p>65. Requirements on best available techniques for treatment, recovery and recycling of WEEE: The requirements on the best available techniques for treatment, recovery and recycling of WEEE should be determined, resulting in an easier ad-hoc assessment of the technologies applied.</p>	<p>64. HLG: welcomes that Commission has proposed this.</p> <p>65. HLG: sees the point of the CZ Rep and recommends as much clarity as possible.</p>	<p>1. The Commission agrees that the deadlines for submission of information from the Member States to the Commission (Art. 12(1) and 12(2) of the current Directive) should be unified, and has proposed this in Article 16 of the recast proposal.</p> <p>2. Techniques for the treatment, recovery and recycling of WEEE can be of very diverse nature, taking into account that hundreds of thousands of different products have to be dealt with. The Commission therefore thinks that the establishment of specifically determined best available techniques can in itself create a lot of administrative burden, and might be quickly outdated by innovation. The annexes to the Directive do establish sufficient minimum requirements for the selective treatment and storage of WEEE.</p>
Datec Technologies Ltd.	WEEE	66. Instead of the monitoring requirements proposed by the Commission for shipping used electrical and electronic equipment, trust a declaration of producers regarding the status of EEE, combined with a certification mechanism for export channels. (Datec Technologies)	66. HLG: accepts Commission response: working on base of trust is unfortunately creating uncertainty and threatens level-playing field. Undermines enforcement.	Numerous cases of illegal exports and substandard treatment of WEEE in developing countries have been unveiled in the last years, and have been discussed in the media. These cases have shown that trusting producers/waste handlers to respect the relevant legislation is not sufficient to prevent such illegal shipments.
Eurochambres/UK Government + Zentralverband des Deutschen Handwerkers	WEEE	<p>67. Introduce a minimum threshold for SMEs with respect to the producer responsibility within the Directive.</p> <p>67a. De minimis: There is currently no de minimis exemption in the WEEE Directive for either small producers or</p>	67+67a. HLG has discussed this proposal before. Its conclusion: “The HLG stresses that introducing thresholds as an instrument for cutting administrative burdens should be considered in cases where	A minimum threshold may reduce the environmental benefits of the Directive as it would most likely create a strong incentive for small volume imports into the EU (e.g. by small internet sellers), unfairly competing with the larger importers who contribute to WEEE management. A very large number of small "producers" (=those who place on the EU market), selling a large variety of different equipments outside the scope of the WEEE Directive,

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UK Government		<p>small retailers</p> <p>68. An on-line system for reporting would simplify reporting and the transfer of the information.</p> <p>68a. The UK would like the Commission to explore the possibility of exemptions for small distributors whose main business is not in the electrical or electronic area. The UK would also like to explore the potential for a delay on obligations for producers who are start-up businesses.</p>	<p><i>this does not affect the effectiveness and credibility of EU legislation”.</i></p> <p>68. HLG has already welcomed suggestions for online-reporting. First environment report para 15.a.</p>	<p>would lower the effectiveness of the legislation.</p> <p>The Commission agrees that an on-line reporting system can be useful. The Commission proposal foresees to harmonise the format for registration and reporting in Comitology. Such a Comitology decision could include provisions for an on-line format.</p>
	WEEE	<p>68b Uniform registration requirements: At present all producers must register in each Member State where they place equipment on the market. Registration requirements vary widely from Member State to Member State. The UK believes the rationalisation of registration requirements would significantly reduce the administrative burdens on producers across the EU</p> <p>68c Scope: The overall scope of products caught by the directive has been interpreted in different ways by different Member States. As part of the Commission review, the UK would like a close and detailed re-examination of scope to help develop clear and</p>	<p>68b HLG: the Commission has proposed a review of the WEEE directive which includes a harmonisation of producer registration. It claims that this would lead to 94% of the reduction of the admin burden. The HLG is interested to know from the stakeholder whether it shares that assessment.</p> <p>68c. HLG: cannot form an opinion without a response from the Commission.</p>	

Proposer	Legislation	Proposal	HLG	Commission commentary
		agreed definitions and applications across all Member States to help ensure a far higher degree of consistency		
UK Federation of Small Businesses	WEEE	<p>69. Producer compliance schemes in the UK should report on an annual basis only.</p> <p>70. Streams from households and businesses should not be reported separately.</p>	<p>69. HLG: call upon Commission to stimulate best practice across EU, preventing unnecessary burdens.</p> <p>70. HLG: proposal likely to affect effectiveness of Directive, so outside scope of HLG mandate.</p>	<p>1. The issue reported by the stakeholder must be UK-specific. The same applies to the reporting frequency of producer compliance schemes: No reporting frequency for them is set in the current WEEE Directive on European level.</p> <p>2. It is important to distinguish between WEEE from private households and WEEE from others (business users), because the objective of a high collection rate is harder to fulfil for the many small equipments coming from a large number of households. For this reason, the requirements on WEEE from private households are stricter and more detailed.</p>
Hewlett Packard	WEEE	<p>71.. A harmonised EU registration process is recommended, leading to harmonised national requirements and procedures. The national registers should exchange their data. (Avoids administrative costs of 10 person years per annum, Hewlett Packard)</p> <p>72. Registers should not exchange money as this would lead to a need for harmonisation of recycling costs. (Hewlett Packard)</p> <p>73. The Directive should ensure that 100% of WEEE is recycled according to the requirements of Annex II of the</p>	<p>71-72-74-75-76-77 HLG welcomes that most proposals have already been picked up by the Commission.</p> <p>73. HLG considers this as beyond issue of “unnecessary burdens” and agrees with Commission that this is merely shifting burden than reducing.</p> <p>78. HLG: proposal could reduce effectiveness of Dir.</p>	<p>1. The harmonised registration process recommended by Hewlett Packard is included in the Commission proposal, and the data given by Hewlett Packard confirm the potential the Commission has identified in this area by harmonising the Member States requirements.</p> <p>2. The Commission proposal does not include a requirement for the registers to exchange money. It only states in Article 16 that "The registers shall be inter-operational to exchange such information [...], including for the transfer of money. [...]".</p> <p>3. The Commission proposal stipulates that "Member States shall ensure that all separately collected WEEE undergoes treatment", and of course this must be in line with Annex II of the Directive on treatment requirements.</p>

Proposer	Legislation	Proposal	HLG	Commission commentary
		<p>Directive and that all WEEE is accounted for. (Hewlett Packard)</p> <p>74. Member States (instead of producers) should retain the responsibility for meeting the collection targets. The collection rate should be measured at the point of recycling to recognize all WEEE collected and recycled. (Cost saving of 4.6 billion, Hewlett Packard).</p> <p>75. Let producers decide whether a product is declared as WEEE sold from "Business to Business", based on the intended end user of the product. Alternatively, create more guidance on European level on the definition of WEEE from private households and from other users. (Avoids administrative costs of at least 2 person years per annum, Hewlett Packard)</p> <p>76. The WEEE Directive should ensure that visible fees are truly optional and prohibit mandatory fixed visible fees. Visible fees are not appropriate for IT equipment but may be more appropriate for certain product categories such as white goods and lamps. (Administrative cost reduction of up to 90% for some products, Hewlett Packard)</p>		<p>4. The Commission does not think that Member States should retain the responsibility for meeting the collection targets. Instead and in order to implement the principle of producer responsibility, and to give producers the full incentive to take WEEE related costs into account when designing products, the Commission has proposed that producers, or third parties acting on their behalf, achieve the collection rate. The cost savings indicated by Hewlett Packard, therefore are not potential reductions of administrative burdens (or even costs), but represent a shift of costs for collection from producers to Member States. The costs indicated also appear to be very high.</p> <p>5. The Commission agreed that the B2B – B2C categorisation needs to be clarified. Producers have an incentive to declare as much WEEE as possible as WEEE from businesses (B2B) as this has consequences for the financial producer responsibility obligations. For this reason and with the requirement of a fair level playing field in mind, the classification can not be left to the producers alone. The Commission proposal foresees to classify WEEE into B2C and B2B through Comitology, taking into account the share of the equipment sold to private households or others.</p> <p>6. The Commission proposal leaves the choice of a visible fee to producers, by stipulating that "Member States shall ensure that producers are allowed to show purchasers, at the time of sale of new products, the costs of collection, treatment and disposal in an environmentally sound way." It is possible that mostly producers of certain white goods and lamps choose this option. The administrative burden reduction estimate of the stakeholder is doubtful and can not be generalised.</p> <p>7. In relation to the visible fee, the Commission proposal stipulates that "The costs mentioned shall not exceed the actual</p>

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		<p>77. Member States should not intervene in pricing structures or methods of Take Back Schemes. (Hewlett Packard)</p> <p>78. It is proposed to replace the requirements of the WEEE Directive (Annex I) by a reference to the requirements of the Waste Shipment Regulation and the related Correspondence Guidelines. (Avoids administrative costs of at least 2 person years per annum, Hewlett Packard)</p>		<p>costs incurred." This is to ensure that the visible fee is not abused to hide price and profit increases. Other than this, the Directive does not give Member States a legal basis to intervene in pricing structures or methods. Member States should intervene in these areas only in line with all European legislation, especially concerning the internal market, competition and state aid.</p> <p>8. The Correspondence Guideline No 1, elaborated to guide the implementation of the Waste Shipment Regulation, deals specifically with the shipment of WEEE. This guideline has served as the basis for the Commission proposal for the new Annex I on monitoring requirements for shipments of WEEE. This Annex I of WEEE has been proposed as part of the legal text by the Commission, because the existing Correspondence Guideline No 1 proposed to be used by HP is not binding, and because experience with illegal WEEE shipments in the past years has shown an urgent need for action (i.e. it is not effective).</p>
<p>Metal and Waste Ltd. & Danish government & UK Federation of Small Businesses</p>	<p>WEEE</p>	<p>79. Reduce the reporting requirements from 13 to 7 categories. (Metal and Waste Ltd. UK) Producer compliance schemes in the UK should report on an annual basis only. (UK Federation of Small Businesses)</p> <p>79a Currently there are 10 categories in the directive on which there is a reporting/information obligation. DK proposes five categories. The categories should also be more applicable in connection to the actual preparation of the collection of waste. In this case it would not be necessary</p>	<p>79. HLG: interested in learning more on how reducing categories reduces admin burden and how it decreases effectiveness of WEEE Dir</p> <p>79a. HLG: would like to hear from Commission whether a reduction of categories would affect the objective and enforcement of the Directive, and from the</p>	<p>1. Two recommendations from UK stakeholders suggest the room for improvement in Member States implementation: The current WEEE Directive foresees 10 categories to report on recovery and recycling. A reduction has not been proposed because the Commission opted, with the objective of a re-cast in mind, not to change substantially the related ambition level and reporting system. The 13 categories reported by the stakeholder must be UK-specific.</p> <p>2. Fulfilling their financing obligation by joining a collective compliance scheme is an option which producers can choose under the current WEEE Directive, and which is maintained in the Commission proposal. Removing the financing obligation for producers would undermine the core objectives of the Directive, and removing the option for producers to fulfil this obligation by</p>

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		<p>for companies and WEEE-system to convert in relation to the collected amount. Fewer categories means less paper work for the companies. Furthermore more coherent categories are assumed to give companies less frustration.</p> <p>80. Withdraw the need for a producer compliance scheme and re-establish the direct links between the treatment facilities, local authorities and site operators. (Metal and Waste Ltd. UK)</p>	<p>stakeholder an estimation of the costs saved.</p> <p>80. HLG: changes the nature of directive, goes beyond mandate.</p>	<p>means of a collective compliance scheme would increase the burden on producers.</p>
UEAPME	WEEE	<p>81. Introduce a minimum threshold for SMEs with respect to the producer responsibility within the Directive.</p>	<p>81. See 67 above</p>	<p><i>Dealt with under Eurochambres submission.</i></p>
Valpak	WEEE	<p>82. Broaden the scope of the Directive to include all electrical products.</p> <p>83. It will be difficult to harmonise data requirements across Member States and to enforce this, due to varying national producer requirements, and because of the legal basis (not Art. 95) of the Directive. This concept could only be applied for the most basic information.</p> <p>84. Financing obligations should be based on national sales data for the previous years rather than the current year.</p>	<p>82. HLG: does not see how that would reduce admin burden.</p> <p>83. HLG: welcomes efforts Commission.</p> <p>84. HLG accepts response Commission.</p>	<p>1. In the spirit of regulatory stability and in the context of a recast exercise, the Commission has left the scope of the Directive largely untouched, though clarifying it by reversing the relationship between the WEEE and the RoHS scope. Broadening the scope might be welcomed by some stakeholders, such as compliance schemes as is Valpak UK, but might be very much fought against by others.</p> <p>2. The Commission is aware that the harmonisation effort undertaken is not a simple. However, the Commission is of the opinion that this exercise to reduce administrative burdens is worth the effort, and will pursue it vigorously within the existing legal framework.</p> <p>3. The reporting frequency of producer compliance schemes must</p>

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				<p>be UK-specific, as would the reference year for financing obligations: No provisions for these requirements are set in the current WEEE Directive on European level, or in the recast proposal.</p>
<p>Bavarian State</p>	<p>Environmental State Aid Rules</p>	<p>85. EU rules on support measures including those for energy saving, use of renewable energies and energy technologies make both Federal and State (<i>Land</i>) provision of such measures increasingly difficulty and time-consuming.</p> <p>In particular, the new Community guidelines on state aid for environmental protection (2008/C 82/01) contain extremely detailed, complex and now barely comprehensible rules which are often obstacles to the sensible, practical, uncomplicated and unbureaucratic design and implementation of support programmes. An example of particularly impractical provisions, almost impossible to implement, are those on the calculation of "eligible additional costs", which in many cases assume purely theoretical cost interfaces within an energy project between almost normal costs and environment-related additional costs, which do not exist in practice. Particularly in the case of complex</p>	<p>85. HLG: there is a huge difference of perception between the stakeholder and the Commission about the applicability of the rules. We would like to hear the response from the stakeholder to the Commission's defense and to its reference to the option for a lighter procedure.</p>	<p>It is exaggerated to say that the rules are so difficult to apply. The Commission continued using the concept of "extra costs" in the new Environmental Guidelines because this is the only way we can avoid that state aid is not granted for part of an investment which has nothing to do with environmental protection. It's true that the extra cost approach is more complicated than if full investment costs were used. However, practice up to now has demonstrated that it is possible. The principle of extra cost has been used since 2001 and the cases from the past can often serve as an inspiration for conducting the calculation.</p> <p>Having said that, it should be noted that under the General Block Exemption Regulation, a simplified method of calculation applies. This is valid for smaller projects or established practices and implies lower aid intensities.</p> <p>Furthermore, it might be worth noting that for all other forms of aid (especially for bigger projects) a detailed scrutiny of the eligible costs seems justified in order to avoid distortions of competition. Finally, a detailed scrutiny of these costs also serves to limit the aid to the amount necessary thus avoiding unnecessary burdens for the State budgets.</p>

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		<p>alternative energy projects, it is almost impossible to apply the provisions on taking account of "operating benefits and costs" in any practical way, and the requirement in any case imposes an extremely heavy administrative burden on the applicant and the authorities. The increasingly restrictive requirements imposed on Member States by the EU, including with regard to support for energy saving and renewable energies, conflict not only with the EU's own objectives in these areas and the many common obligations of the Member States regarding such measures under EU law, but also with many of the EU's own measures, including in areas relating to energy retail, where EU-level support does not seem necessary or efficient and is dubious in terms of the subsidiarity principle (e.g. EU support for local/regional energy agencies).</p>		
<p>Dutch Government</p>	<p>Proposal for a recast of the Directive on the energy performance of buildings (COM(2008)780 final)</p>	<p>86. The Dutch Government has some serious concerns with regard to several measures proposed in the recast. Especially those measures that in our view affect the administrative burden. A national impact assessment is carried out at the moment. The draft impact assessment shows that the recast would double the administrative burden in the Netherlands, while it would not automatically lead to more energy</p>	<p>86. HLG: the negotiations inside the Council and between Council and European Parliament have just finished. We assume the stakeholder has had sufficient opportunities to present its proposals. The HLG considers this not to be the right</p>	<p>1. It should be noted that this and suggestions 3 and 4 below concern a Commission proposal made in November 2008 and currently pending in 1st reading of the ordinary legislative procedure. The Commission already examined the issues and aspects raised by NL when consulting Member States and stakeholders and carrying out the Impact Assessment. Further consideration has been given to the Netherlands' views by the Commission, the Council and the European Parliament in the course of the legislative procedure. An informal Agreement has now been reached by the European Parliament and the Council of Ministers on the substance of this</p>

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		<p>saving in the building stock. Based on this impact assessment alternative solutions are developed who contribute to energy saving in the building environment against low costs and low administrative burden."</p>	<p>moment to come with advise, rather wants to see now how the Directive will work out in practice.</p>	<p>proposal. However, at the time of writing, certain issues relating to powers to be delegated to the Commission under the Treaty of Lisbon were still being debated by these Institutions. It is expected that the new Directive will be formally adopted in the first half of 2010, and will enter into force by the Summer. However it should also be noted that the legal instrument selected by the Commission is that of a Directive, which means that the EU sets the basic frame and objectives, but the detailed implementation is enacted by each Member State, taking into account national requirements and specificities. Members States have thus a large margin of manoeuvre, including scope to reduce administrative burdens at national level while laying down national provisions that are effective in terms of energy savings. This important phase of national transposition of the EU Directive is expected to be completed within 2 to 3 years of its entry into force.</p> <p>2. The proposed Buildings Directive aims at significantly reducing the energy consumption of buildings by stimulating the construction of energy efficient new buildings and energy efficient renovations of existing buildings. This should also contribute to stimulating the overall EU economy. The Commission's Impact Assessment and several studies and analyses at EU, national and regional level, show that an enormous untapped energy savings potential lies in buildings at a cost-effective level. Nevertheless, this potential is not being realized at present by means of existing legal instruments. Therefore, taking account of the results of the various studies, the recast Directive aims to close this gap by adopting the following, balanced, three-step approach to reinforcing energy saving activities:</p> <ul style="list-style-type: none"> • (i) Setting energy performance requirements as a legal obligation; • (ii) creating awareness of cost-effective energy

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				<p>efficiency measures by providing quality information to consumers and investors;</p> <ul style="list-style-type: none"> • (iii) Addressing the importance of financial stimuli which trigger substantially greater investments in energy efficiency measures. <p>Furthermore, the economic recovery should be significantly reinforced, as, in the period up to 2020 and beyond, these investments can be expected to create hundreds of thousands of jobs at regional and local level, in particular in small and medium-sized enterprises (SMEs). When the proposal for a recast Directive was being prepared and then during the negotiations with the co-legislators, a particular focus was placed on keeping the administrative burdens of the legislation extremely low, with the result that they are by far outweighed by the economic benefits and energy savings that it is expected to generate.</p> <p>3. The suggestion, on reducing administrative burden is vague and refers to no specific Information Obligations imposed directly by the proposed recast Directive. All best practice examples of frontrunner Member States demonstrate that administrative costs of those provisions which are now reflected in the recast Directive (see point 4 hereunder) are more than outweighed by positive economic and environmental effects, when the Directive is implemented properly and effectively.</p> <p>4. Furthermore, the proposed legislation on buildings in question is based on best practices and lessons learnt with regard to administrative arrangements in the Member States, following the implementation of the current Energy Performance of Buildings Directive 2002/91/EC since 2002. This concerns, for example, the establishment of a quality control regime for Energy Performance Certificates for buildings or the provision for determining economic analysis before fixing energy performance requirements for buildings (the "cost-optimal"-approach). These have now been</p>

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				included in the recast Directive in order to allow all Member States to benefit from these best practices and lessons learned.
UEAPME	Proposal for a recast of the Directive on the energy performance of buildings (COM(2008)780 final)	<p>87. The European Commission's proposal stipulates in art. 17 that Member States shall establish an independent control system in accordance with the specifications of annex 2 of the same proposal. However, the establishment of such a control system would run counter to the EU's and Member States' efforts to cut red tape. It would increase costs, without necessarily creating tangible benefits.</p> <p>If the EU made energy demand-based certificates mandatory (opposed to those based on energy consumption as it is at the moment), it would contribute to the energy efficiency goals without creating more administrative burden.</p>	87. HLG: would like to hear the stakeholders response to the statement that the control system is necessary in order to guarantee the credibility of the certificates.	<p>The Commission already examined this suggestion when consulting Member States and stakeholders and carrying out the Impact Assessment accompanying the proposal. In particular, in the Impact Assessment and inter-institutional negotiations, it has been considered that the benefits of introducing such a random control system for good quality certificates by far outweigh the administrative costs. There may be some very small costs for consumers (who also get better quality), but there will be no unnecessary burdens for companies that perform well. The need for a quality control system is independent of having an asset rated certification regime or an operational rating one in place. Neither the one nor the other automatically guarantees high quality certificates. However, the energy performance indicator of the certificate has to be included in all advertisements for sale or rent of buildings/apartments. Given that the Energy Performance Certificate will therefore have a reinforced role in the future and will in particular influence the market price of buildings, high quality certificates are essential in order to avoid cheating. Furthermore, some Member States base incentive programmes on the energy rating figure shown in the Certificate (e.g. giving a certain amount of subsidies if the building's energy rating in the certificate is improved due to renovation investments). Best practice examples demonstrate that such powerful, random control systems can be established for about 0.5 to 1 €per certificate. A proper certificate costs on average about 100 to 300 €per building unit and is valid for 10 years (and is only required in case of a transaction concerning the building). Therefore this represents negligible extra costs for consumers and is self-financing for companies, but creates reliability in the certification system and good quality information by the certificate to consumers.</p>

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Bavarian Government	Proposal for a recast of the Directive on the energy performance of buildings (COM(2008)780 final)	<p>88. The proposal for a recast of the energy performance of buildings Directive is designed to limit further the energy demands of buildings throughout Europe. To this end it lays down many detailed rules for the MS. The Bavarian Government supports the basic objective of the proposal for a directive, which is to reduce the energy consumption of buildings still further. This may contribute substantially to saving energy-improving efficiency and reducing CO2 emissions. Nevertheless, we must reject proportion of the detailed rules for the MS. They not only contravene the principle of subsidiarity, but also give rise to significant, in many cases unnecessary, bureaucracy for investors in buildings, owners of buildings and authorities.</p>	<p>88. HLG agrees with the Commission that the stakeholder response does not clarify what unnecessary administrative burdens it is concerned about. Its critique seems to go beyond that issue.</p>	<p>1. The Commission welcomes the Bavarian Government's support for the basic objectives of the proposed Directive.</p> <p>2. However, the suggestion as formulated is vague and does not offer any clear solutions beyond the rejection of a number of unspecified, detailed rules. It complains about administrative burdens imposed on enterprises and homes by the pending EU legislation, but, seems in fact to be complaining mainly about a possible violation of the principles of subsidiarity and proportionality by the imposition. of disproportionate, detailed rules on Member States and their public authorities. However, when preparing and negotiating the proposed Directive with the co legislators, the Commission placed a particular focus on keeping the administrative burdens of the legislation extremely low and to tackling the weak points of the existing Directive. It considers that the administrative burdens are indeed by far outweighed by the Directive's economic benefits and energy savings. The new Directive is fully based on the Member States' experience with the original Directive and their best practices and lessons learned. Therefore, the proposed recast Directive fully reflects the bottom-up inputs from Member States and regions, rather than any imposition of obligations invented at EU level. However, the proposal does not establish uniform EU- wide energy or technology requirements for buildings, but only requires Member States to establish energy efficiency minimum requirements at national or regional level. The proposed Directive sets some general rules for certificates, inspections etc. It is however the Member States who implement the Directive in their national laws and the margin of manoeuvre accorded to them by the Directive is very wide. This applies for example to the requirement for a random sampling quality control of Energy Performance Certificates, where best practice in Member States demonstrates that it can be established for about 0.5 to 1 €/per</p>

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				<p>certificate. A proper certificate costs on average about 100 to 300 €per building unit and is valid for 10 years (and is only required if there is a transaction concerning the building). Therefore this represents negligible extra costs for consumers and is self-financing for companies, but creates reliability in the certification system and ensures good quality information by the certificate to consumers. Such a system is far less burdensome, but potentially more effective in generating energy savings, than certain existing schemes such as chimney sweeping regimes. The Commission, the Council and the European parliament are all of the view that this is an effective and balanced approach that fully respects the principles of subsidiarity and proportionality.</p> <p>3. Furthermore it is possible that deletion of certain rules could impair the EU's capacity to ensure that the energy efficiency objective of the proposed Directive is fully met. The buildings sector is responsible for about 40 % of the EU's total energy consumption and CO₂ emission's. It provides an enormous cost-effective energy savings potential (the lion's share of the three main sectors responsible for energy consumption: buildings, industry, transport). Therefore this sector inevitably needs to be addressed at EU-level, which is what is done by the recast Directive. It provides for a balanced use of the three instruments well-known in this sector.</p> <ul style="list-style-type: none"> • setting performance requirements by legislation; • providing financial assistance; • Providing good quality information which creates awareness and stimulates energy efficiency investments at consumer and investor levels. <p>Furthermore, before adopting its proposal the Commission already examined the issues raised by the Bavarian Government when consulting Member States, regions and stakeholders (hearing in January 2008 in Brussels, public consultation online from April to June 2008) and carrying out the Impact Assessment.</p>

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				Subsequently, the Commission, the Council and the European Parliament gave further consideration to Bavaria's views by in the course of the legislative procedure.
UEAPME and Zentralverband des Deutschen Handwerkers	Directive on renewable sources of energy	<p>89. The renewable energies directive provides for the training of installers (Art. 14 and annex IV). Given the highly diverse structure of educational systems in the Member States, the implementation of the “European approach” tends to create serious administrative burdens.</p> <p>The EU should refrain from regulating qualification. Instead it should enhance the quality of training in the areas of renewable energies and energy efficiency by promoting peer learning, for instance in the context of the Intelligent Energy Europe Programme.</p>	<p>89. HLG: it sympathises with the stakeholders but it would like to hear the response of the stakeholders to the statement of the Commission. The Commission questions whether the criteria for training of installers require serious administrative burdens and in particular whether such burdens are for business.</p>	<p>The Commission already examined this suggestion when consulting stakeholders and carrying out the Impact assessment accompanying its proposal. So it has already taken into account the suggestion when making its proposal, which was only recently adopted by the European Parliament and the Council.</p> <p>Article 14 makes clear that the Member States are responsible for ensuring that training schemes for installers are available. The Commission considers that the article and annex IV are not prescriptive and leave a wide margin of discretion for Member States to implement the Directive in accordance with their education and training traditions. Furthermore, the article aims to fulfil an essential objective of the Directive, which is to develop the renewable energy market by building up a pool of skilled labour. (There is currently a bottleneck in the market due, in part, to a skills shortage.)</p> <p>This measure is addressed to MS and their training authorities and should have little or no direct costs for industry. On the contrary, an increase in the pool of skilled labour as a result of this measure, in combination with binding targets for renewable energy and requirements for simplified procedures to authorise renewable energy installations, should benefit industry.</p> <p>The specific criteria for training of installers, contained in Annex IV of the Directive, are largely drawn from a study (“EARTH”) funded by the Intelligent Energy Europe (IEE) Programme. The EARTH report recommended Europe-wide accreditation schemes for installer training and certification with a strong, common, EU-compatible dimension. Following the adoption of the Directive, the IEE Programme has funded a project to help establish schemes for installers</p> <p>(see: http://www.quali-cert.eu/).</p>

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DATEC TECHN	<i>Battery Regulation</i>	91. Fees excessive	91. HLG: fees can reflect the real costs for public authorities to apply the law. If they go beyond they need to be either reduced or called levies.	Commission to comment at hearing
Eurochambres, SME Union, Jade	Emissions Trading Directive	92. The ETS-Directive also covers smaller combustion installations, partly operated by SMEs. Operators of such installations must thus comply with certain information obligations, in particular with costly monitoring and reporting requirements.	92. It seems that the concern mentioned is addressed. Whether more could be done without affecting the purpose of the ETS Directive is a question we hope to learn more about during the hearing.	Commission: Due to new monitoring and reporting guidelines applicable from 1 January 2008 considerable simplifications for small emitters have been introduced with regards to the monitoring and reporting requirements. The monitoring requirements for small emitters, and the resulting reporting of emissions have since then in general become very simple and it is not proved that they put a high burden on the SMEs. Administrative procedures within Member States might have a bigger impact than the monitoring and reporting requirements. Based on experience gained since the beginning of EU ETS in 2005, most Member States have since then introduced simplified administrative procedures, in order to lessen the administrative burden for the SMEs. Also the revised ETS Directive (2009/29/EC) that was adopted in December 2008 took further into account the concerns of SMEs. As a consequence, the Directive will allow Member States to exclude, as from 1 January 2013, small emitters (in general, installations with less than 25000 tons of annual CO2 emissions are envisaged) provided that equivalent measures are in place at national level.
Swedish District Heating Association, BusinessEurope	Emissions Trading Directive	93 The administrative requirements of the Directive result in large administrative compliance costs, especially for smaller companies. The rules for administering emissions trading should be simplified to reduce the administrative compliance costs to business.	93. See 92	See above

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German Business Aviation Association	Emissions Trading Directive	94. A European wide and slim system of ETS for Aviation. The concern is about complicated/costly reporting mechanism, in particular for small emitters.	94. HLG would like to hear response from Stakeholder, as its comments are likely to have been made before the final setup of the ETS for Aviation was agreed.	<p>The Commission is aware of the concerns and has made considerable efforts to reduce the administrative burdens of the scheme.</p> <ul style="list-style-type: none"> - When implementing the extension of the EU ETS to aviation, we have made strong efforts to reduce the administrative burden on small operators. - In particular we have developed simplified procedures for the monitoring and reporting of emissions which should significantly reduce compliance costs. The aim is to allow small emitters the ability to use simplified tools that model the emissions covered by scheme. We estimate that over 90% of the aircraft operators in the scheme should be able to use these tools. - The modeling tools avoid the need for aircraft operators to implement management systems to measure their fuel consumption accurately, so should significantly reduce compliance costs and administrative burdens. - A fuel consumption modeling tool developed by EUROCONTROL (The European organisation responsible for air navigation) has recently been approved for use by Member States, the legislation is currently subject to scrutiny at the European Parliament. - We have regular dialogue with business aviation operators at a European level to discuss implementation of the EU ETS and the needs of the business aviation. This relationship is very constructive and we welcome continuing feedback from the sector regarding the EU ETS. - We are happy to consider further improvements to the legislation that further reduce the administrative burden on small

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<i>EUROCHAM BRES</i>	General	95. HLG to call upon Commission to establish process to coordinate further development of electronic reporting tools at EU level and national level. And use, as appropriate, internationally acknowledged standards to avoid double reporting	95. HLG: agrees with this call.	emitters. Commission to comment at hearing.