



EUROPEAN COMMISSION

High Level Group of Independent Stakeholders on Administrative Burdens

INVITATION TO STAKEHOLDERS CONSULTATION ON ADMINISTRATIVE BURDENS DUE TO EU ENVIRONMENTAL LEGISLATION

Deadline for input 17 July 2009 - Pre-invitation for meeting in September

Brussels, 19.05.2009

Reducing Administrative burdens of EU Environment law

Dear Stakeholders,

In January 2007, the Commission presented an Action Programme to reduce administrative burdens on businesses in the EU by 25% by 2012. The European Council endorsed the Action Programme in March 2007. A consortium of consultants has been contracted by the Commission, in order to calculate administrative burdens and develop proposals for reducing red tape within 13 priority areas. One of these priority areas is Environmental policy. The Commission selected the following legislation to be included into the Action Programme:

1. Council Directive 96/61/EC concerning integrated pollution prevention and control (IPPC)
2. Directive 2002/96/EC on waste electrical and electronic equipment (WEEE):
3. Regulation (EC) N° 1013/2006 on shipments of waste
4. Directive 2000/53/EC on end-of life vehicles
5. Directive 96/82/EC on the control of major-accident hazards involving dangerous substances (SEVESO)

Recently it has added to these:

6. Regulation (EC) No 2037/2000 of the European Parliament and of the Council of 29 June 2000 on substances that deplete the ozone layer
7. Directive 98/8/EC of the European Parliament and of the Council concerning the placing of biocidal products on the market.

In autumn 2007, the Commission has established the *High Level Group of Independent Stakeholders on Administrative Burdens* (HLG) chaired by Dr. Edmund Stoiber. The HLG has the task to advise the Commission with regard to the Action Programme. Meanwhile, the HLG has given opinions to the Commission comprising proposals for reduction

measures e.g. in the areas of company law / accounting, transport and value added tax that would lead to a significant administrative burden relief if adopted by the European legislator.

On the 17th April it also agreed on a first report on reducing unnecessary administrative burdens in the environmental field (see Annex II). In this report we not only support specific innovations to make in the fields of the five pieces of EU legislation mentioned above, but also highlight other actions the Commission is already taking to reduce such burdens. We agreed in the group that we would prepare a second set of proposals on the basis of inputs from stakeholders, both already received and still to collect.

For this purpose we intend to organise a consultation in September where we would like to bring representatives of business, regulatory authorities, environmental NGOs and others to discuss possible further steps, beyond what is already presented in our first environment report. Therefore, we would like to invite you to put forward your ideas on concrete measures to reduce administrative burdens, if possible comprising expected savings.

In the Annex you find the criteria we have set for proposals to be taken into consideration.

We would like to discuss concrete proposals in September 2009 at a stakeholder meeting. You will receive an invitation for this ultimately. Please note: all suggestions should be submitted at the latest on 17 July 2009, no new suggestions can be tabled during the meeting.

The meeting itself is for stakeholders that have sent in proposals, but also for those that might be concerned about the consequences of some proposals, for example as environmental NGOs, as implementing authorities.

More information about the High Level Group as well as the Administrative Burden Reduction Program can be found on the Internet: http://ec.europa.eu/enterprise/admin-burdens-reduction/highlevelgroup_en.htm.

Please submit your proposals to Aleid van der Zwan: Aleid.VAN-DER-ZWAN@ec.europa.eu.

Kind regards,

A handwritten signature in black ink, consisting of a stylized 'J' followed by a long horizontal line that tapers to the right.

J. Hontelez

Also on behalf of Mr. Ludewig and Mr. Pesonen, co-rapporteurs for Environment in the High Level Group.

ANNEX I

CRITERIA FOR PROPOSALS ON REDUCING ADMINISTRATIVE BURDEN OF EU ENVIRONMENT LEGISLATION:

Admin reduction proposals should respect the following criteria:

- They should relate to existing EU environment legislation, and particular its Information Obligations;
- They should not question or affect the objectives, ambitions of the legislation;
- They should relate to either “unnecessary” administrative burdens (burdens whose removal would not have a negative impact on the implementation, enforcement, transparency required) or to combination and/or modernization of Information Obligations (using e-solutions) leading to a reduction of time spent on such obligations.

Furthermore:

- Proposals should not simply transfer administrative burdens from business to public authorities [which will often not work anyway as these authorities tend to apply the Polluter Pays Principle to recover their costs through fees etc.
- Proposals should be specific: refer to Information Obligations mentioned in EU legislation or to specific IO’s that one or more national governments have added in order to implement EU environmental legislation.
- Proposals should include evidence that the IO is unnecessary or can be replaced with a less burdensome alternative, in which case the alternative should be described.
- Proposals should give an indication of the costs involved for the sector concerned, illustrative or quantified. And if possible and relevant, give indications of cost levels between countries.



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OPINION OF THE HIGH LEVEL GROUP

Subject: Administrative burden reduction; priority area *Environment*

I. Background

- (1) The High Level Group (HLG) was set up to advise the Commission with regard to the Action Programme for Reducing Administrative Burdens in the EU, and in particular to provide advice on administrative burden reduction measures.¹ The HLG has appointed Mr. Hontelez, Mr. Ludewig and Mr. Pesonen as its reporting members for the priority area “Environment”.
- (2) Environment is one of the 13 priority areas in scope of the Action Programme which covers more than 40 pieces of legislation in these areas.² For the priority area environment, the Action Programme originally covered the following 5 pieces of legislation:
 - Ø Directive 2003/105/EC of the European Parliament and of the Council of 16 December 2003 amending Council Directive 96/82/EC on the control of major-accident hazards involving dangerous substances (SEVESO),
 - Ø Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste,
 - Ø Council Directive 96/61/EC of 24 September 1996 concerning integrated pollution prevention and control (IPPC),
 - Ø Directive 2002/96/EC of the European Parliament and of the Council of 27 January 2003 on waste electrical and electronic equipment (WEEE), and
 - Ø Directive 2000/53/EC of the European Parliament and of the Council of 18 September 2000 on end-of life vehicles.

¹ Cf. Commission Decision C(2007)4063.

² Cf. Communication from the Commission COM(2007)23 final, 2.3.

- (3) In the context of the Action Programme for Reducing Administrative Burdens, the Commission hired a Consortium³ to help mapping and measuring information obligations in the 13 priority areas. According to the preliminary figures presented by the Consortium, the total administrative costs for the five acts in scope within the priority area amount to approximately €727 million. 85 % of these costs or €622 million. have been classified as administrative burdens. 8 % of the total administrative costs or €58 million stem from national obligations going beyond EU requirements (often referred to as "gold-plating"). The findings in this field represent only 0,6 % of the total administrative burden the Consortium has found for the 13 fields of EU acquis investigated.
- (4) About a third of the administrative costs can be attributed to Council Directive 96/61/EC concerning integrated pollution prevention and control - IPPC (€ 270 million), and in particular to the obligation for businesses with certain installations to submit information to public authorities about the results of the monitoring of releases (€220 million). The consortium considers these costs entirely as an administrative burden, and they include €21 million resulting from IOs not directly obliged by the Directive.

The administrative costs stemming from the other four pieces of legislation in scope are assessed as follows:

- Directive 2002/96/EC on waste electrical and electronic equipment (WEEE): € 186 million, of which 62 % or € 116 million are classified as administrative burdens, € 19 million of the costs are considered as resulting from IOs not directly obliged by the Directive;
 - Regulation (EC) N° 1013/2006 on shipments of waste: € 125 million., of which 99.8 % are classified as administrative burdens. Less than €3 million is considered as resulting from IOs not directly obliged by the Regulation;
 - Directive 2000/53/EC on end-of life vehicles: €94 million, of which 95 % or € 89 million are classified as administrative burdens. € 15 million of the costs are considered as resulting from IOs not directly obliged by the Directive;
 - Directive 96/82/EC on the control of major-accident hazards involving dangerous substances (SEVESO): € 52 million, of which 41 % or € 21 million are classified as administrative burdens. A very small portion, some € 0,21 million, is not directly emerging from the Directive obligations;
- (5) For the Shipment of Waste Regulation, as well as the IPPC and WEEE directives, reduction proposals were either adopted or presented by the Commission recently, resulting in possible yearly savings for European businesses and public authorities of approximately, together, €317 million.

³ Capgemini, Deloitte, Rambøll management; assigned by the Commission to measure administrative burden based on certain EU legislation and to identify measures to reduce this burden.

- (6) In addition, with its Third Strategic Review of Better Regulation in the European Union⁴ the Commission announced an extension of the Action Programme to include a further 30 legislative acts. Two legislative acts out of the 30 relate to the environmental sector:
- Regulation (EC) No 2037/2000 of the European Parliament and of the Council of 29 June 2000 on substances that deplete the ozone layer, and
 - Directive 98/8/EC of the European Parliament and of the Council concerning the placing of biocidal products on the market.

GENERAL COMMENTS

- (7) Since 1971, the European Union has developed an extensive set of environmental legislation and policies. It has committed itself to “*a high level of protection and improvement of the quality of the environment*” (Art. 2 EC Treaty). For many Member States the EU environmental acquis has become a crucial source of national legislation. However, environmental policies have remained a shared responsibility, which means first of all that the Treaty allows for national and even regional and local governments to go beyond what the EU has agreed and also continue to act in areas the EU has no common policy. This also means that the environmental administrative burdens business is confronted with can only partially be related to the EU acquis. Also, EU legislation in the environmental field, in a unified market, can also be a more efficient alternative to individual, non-related approaches. This is why multinational businesses often argue for harmonization of requirements to lower their overall costs and create a level playing field.
- (8) The EU has agreed on a better regulation exercise with the dual objective to achieve set objectives in a more efficient way while removing unnecessary administrative burdens, which includes reviews and recasts of existing environmental legislations. The HLG welcomes that in the environmental field the better regulation agenda is implemented systematically, with considerable reductions already foreseen. Better regulation is seen by all sides as a way to make environmental policy that, whilst ambitious, is simple, effective and supportive to economic development and employment creation. A Commission estimate presented to the HLG in March 2009 shows that, despite the fact that recently new pieces of legislation have been adopted and others are still in the pipeline, the systematic approach of reviews and recasts of existing legislation is likely to lead to a total reduction of around €300 million/year of administrative burdens [See attached Annex 1 of the memo presented to the HLG on the 6th of March by DG Environment]. The HLG underlines however, that these figures are a mixture of reductions for business directly and for public administrations.

⁴ Cf. Commission Communication COM(2009) 16.

- (9) In addition, in March 2008 the Commission presented three Fast Track proposals in response to business requests, that would, if implemented, bring:
- 5 million Euro/year savings on reporting requirements on Directive 97/68/EC on the approximation of the laws of the Member States relating to measures against the emission of gaseous and particulate pollutants from internal combustion engines to be installed in **non-road mobile machinery**. A revised draft comitology measure is expected to be submitted to the competent committee for adoption before summer 2009.
 - a one off 400 million Euro savings by not requiring **relabelling of batteries** that were lawfully brought on the market before the 26th September 2008 but had not reached the end consumer by that date (amendment to Directive 2006/66/EC on batteries and accumulators and waste batteries and accumulators and repealing Directive 91/157/EEC). This proposal has been adopted and implemented in the meantime.
 - a non quantified saving on administrative burden due to harmonization of **definitions of Volatile Organic Compounds** that exist in two Directives and a Decision. This action was also implemented in the meantime by Commission Decision.
- (10) The HLG finds the figures found by the Consortium (para 3 above) to be considerably lower than what it expects to be the public perception. Even the Commission, two years ago expected the environmental share of the EU administrative burden to be 4 to 5%, and “goldplating” has been a major complaint by business in the past. The HLG recognizes that this perception, also within business, is partly due to the confusion with compliance costs in the public debate. It is also not sure that the four Environmental Directives and the Regulation chosen represent as much as 80% of the total administrative burden in this particular area. Nevertheless, figures presented by the Consortium give an indication on the administrative costs related to specific legislative acts. The overall picture is of lots of specific information obligations, each of which is limited in nature and in the number of businesses affected. This means costs are low, but the specificity means that they are relatively visible and so are more subject to comment. Nevertheless, the HLG calls upon the Commission to make efforts to inform the public as precisely as possible of the real administrative costs of environmental EU policies.
- (11) The HLG takes note of the extension of the action programme by a further 2 legislative acts regarding environment. Although, the extension of the programme is generally welcomed the HLG questions the selection of the legislative acts integrated into the action programme. This relates especially to the Biocide Directive (98/8/EC) where a major revision is announced before July and proposals to reduce administrative burdens of more than €140 Million are drafted already. The HLG reminds the Commission that the major aim of the measurements is to identify angles for the reduction of administrative burdens. As reduction measures have been

identified already in a considerable amount for this directive, this aim of the burden measurement is unlikely to be achieved.

- (12) The HLG also points that in the measurements the Consortium has not taken into account that in the environmental field (in the spirit of “the polluter pays”) at least part of the administrative costs made by public authorities are passed on to business through, for example, fees for permits etc. This is not required by EU legislation and differs from country to country. While not questioning the legitimacy of this passing on, the HLG calls upon the Commission to clarify the dimension of this additional burden. This passing on also means that in this field at least it does not make sense to shift administrative burdens from business to authorities.
- (13) The HLG notes the relatively high percentage of environmental suggestions made by business and government institutions in the on- and offline suggestions, which were not always limited to administrative burdens, but also to compliance costs. Besides the five pieces of legislation targeted by the first Action Programme on Reducing the Administrative Burden, others have been the subject of business/government proposals. In several cases, the Commission has in the meantime taken action which (potentially) lead to reductions, in some other cases the suggestions go beyond the administrative burdens, so beyond the mandate of the HLG. In specific cases the HLG has given recommendations already, an overview is given below.
- (14) The HLG is planning to organize dialogue with stakeholders (business, environmental organizations, regulatory authorities, inspectors, trade-unions, etc) in summer to get feedback on this first advice and to collect and discuss possible further steps to identify and remove unnecessary administrative burdens in the environmental field, leading to a second advice. In this context the HLG will also deal with the remaining online and offline proposals.

WITH REGARDS TO THE CONSORTIUM RECOMMENDATIONS:

- (15) The Consortium has made six suggestions on how to reduce the administrative burdens of the four directives and one regulation. Together they would reduce the administrative burdens with around €104million/year, which is more than 17 % of the total burden measured. However, three of the proposals relate to Directives that are currently under review, and for each the Commission recently has presented more dramatic reductions of administrative burden.

The HLG advises on the proposals made in the following manner:

- a. **On the WEEE Directive** the Consortium proposes to integrate the information chain on WEEE reporting for the different parties that are involved. It suggests for that purpose to increase the use of eXtensible Business Reporting Language (XBRL) by producers of electric and electronic equipment, producer responsibility organizations and treatment facilities. This standardized format for the exchange of information between those different actors involved in the WEEE reporting could reduce administrative burden by € 41 million/year. The Commission proposed a revision of the WEEE in 2008. If adopted, the new WEEE directive registration and reporting obligations for producers would be harmonized and national registers should be made interoperable. *The HLG welcomes this suggestion in principle, while pointing at the initial costs for business for moving to such a system. These initial costs would reduce the benefits the 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.*
- b. The Consortium proposes, in relation to the **Waste Shipment Regulation**, to establish national electronic databases for registrations of waste shipments. It points at the fact that four countries are already using a EUDIN eGov system (European Data Interchange for waste notification systems). If it was applied throughout the EU this system could save business almost € 44 million/year in administrative burden. *The HLG calls upon the Commission to advise Member States that do not use this or a comparable interoperable system to consider implementing such a system as well.*
- c. With regards to the **End of Life Vehicles Directive**, the Consortium proposes to introduce online systems through which treatment facilities would issue vehicle destruction certificates for vehicle owners in Member States where this is not existing yet. It estimates a reduction of administrative burden potential of € 12 million/year. *The HLG supports this proposal and calls upon the Commission to stimulate Member States to follow this advice, while recognizing that it cannot be taken for granted that in all Member States all business actors are already computer and Internet literate. It invites the Commission to stimulate such a change in practice.*
- d. **On the IPPC Directive:** The Consortium observed that in a number of Member States, operators are required to apply, sometimes frequently, for completely new permits for installations when a review or update of the existing permit would be sufficient following the Directive. The Consortium proposes that those Member States should only require re-applications where strictly necessary and rather allow the updating of (parts of) existing permits. The savings are estimated to be €4

million/year. *The HLG calls upon the Commission to advise Member States that re-applications shall only be required where objective circumstances justify a re-application.*

- e. **On the “Seveso” Directive:** The Consortium proposes to make it easier for operators to send or update a notification of presence of dangerous substances in their establishment by using national websites. Those websites would include standard forms pre-filled with previously submitted information and automatically forward the completed online notification to relevant national authorities. As this is affecting a small group of industries only, the savings are moderate, some € 1,5 million/year. *The HLG calls upon the Commission to promote this practice, which could also simplify the implementation of the public information requirements for both the companies and the public authorities concerned, to the Member States.*

- f. **Concerning both the IPPC and “Seveso” directives:** The Consortium estimates that around half of the installations that fall under the Seveso Directive also fall under the IPPC directive. Coordination or integration of inspections, based on the frequency requirements set by the Seveso Directive would reduce the administrative burden related to the preparation, presence of inspectors and follow up. In addition, it could facilitate the sharing of information between IPPC and Seveso inspectors to minimise duplications. This is estimated to save businesses € 1.5 million/year. *The HLG calls upon the Commission to promote this practice to the Member States.*

OTHER ACTIONS TO TAKE TO REDUCE THE ADMINISTRATIVE BURDEN OF EU ENVIRONMENTAL LEGISLATION

- (16) The HLG recognizes the fundamental right of Member States to go in their environmental ambitions beyond agreed EU legislation as well as the reality of different legal and administrative systems. However, it considers the 8% additional administrative burden due to national obligations going beyond EU requirements, as substantial. This is particularly the case since the measurement exercise was focused on areas where EU legislation is dominant. The Consortium also identified wide ranges in the costs of meeting a given information obligation in different Member States. This can also point at inefficiency in collecting information or inefficiency in the administrative practices of businesses and competent authorities. It is in particular questionable why the same information obligation should take twice as long to comply with in the least efficient country as in the most efficient country. *The HLG therefore calls upon the Commission to ask Member States to investigate to what extent these additional obligations are creating an unnecessary administrative burden and can be reduced or removed without affecting the effectiveness of national implementation of the legislation concerned. It calls for initiatives in particular where the Standard Cost Model shows considerable differences between countries in time spent on information obligations to work*

with. The HLG invites the European Commission to work with, for example, The European Union Network for the Implementation and Enforcement of Environmental Law (IMPEL) and the Network of Heads of Environmental Protection Agencies, to bring to the fore best practices in order to improve practices on other countries.

- (17) Business and industry as well as public authorities have made a number of suggestions for the reduction of the administrative burden through the on-line and off-line consultations opened by the Commission. The HLG has already reacted to several of them in September 2008 and January 2009:
- a. Harmonisation of the **European Waste List**. The Commission is currently conducting a review of the European Waste List, in order to simplify and modernise it. This included Member State and stakeholder consultation in 2008, the results of which have in the meantime been published. *The HLG welcomed the initiative to simplify and modernise the European Waste List and calls upon the Commission to incorporate measures to reduce administrative burdens in the reform.*
 - b. Simplification of the criteria on the **Eco-label** for SMEs. The Commission has reviewed the eco-label regulation (No. 1980/2000) and tabled a proposal to not only simplify criteria and abolish annual fees but also simplify the assessment and verification process. *The HLG welcomed the Commission's simplification efforts and is pleased the Council of Ministers and European Parliament have agreed to it in the meantime.*
 - c. Centralising and simplifying testing for active substances and product registration in the **Biocide Directive** (98/8/EC). The Commission is preparing a major revision of the Biocide Directive, which was expected to be published in November 2008. *The HLG called upon the Commission to take stakeholders' views into account when revising the directive.* The HLG appreciates that the Commission is currently estimating that the net impact of its proposal can reduce administrative costs with around 140 million Euro/year, *and calls upon the Commission to publish its proposal without further delay.*
 - d. With regards to the **EMAS** (Eco-Management and Audit Scheme) less bureaucratic registration procedures and an extension of administrative simplifications to companies not registered (e.g. companies that are ISO 14001 certified) were asked for. The Commission pointed out that the protection level of the environment is better safe guarded by EMAS. Thus, EMAS privileges should remain reserved for EMAS registered companies. However, the Commission's proposal for revision contains rules allowing for an easy step-up from other environmental management systems to EMAS,

and facilitates the process especially for SMEs. *The HLG welcomed the proposed simplifications and is pleased the Council of Ministers and European Parliament have agreed to it in the meantime.*

- e. With regards to the **REACH** (Registration, Evaluation and Authorisation of Chemicals) Regulation a request was made for guidance and translations of the manuals in all EU languages. The Commission acknowledged that parts of the guidance documents were available in English only so far; however, it announced that translation of certain parts is under way. *The HLG urged the European Chemicals Agency to provide the respective translations as soon as possible.* In the meantime several documents have been translated already. The missing documents are currently translated and will be published on the Agency website progressively. Furthermore, on behalf of SMEs, exemption for registrations was asked for, and also an exemption for recycled materials from registration was requested. The Commission responded that an exemption of SMEs would compromise the objective of ensuring a high level of protection for health and environment. It also underlined that REACH already contains provisions which were designed to keep the burden for SMEs to a minimum (limited obligations, lower requirements for lower volumes, later registration deadlines, reduced fees etc.). Furthermore, the Commission emphasized that for recycled material a registration is only required if a substance has not been registered previously by any other actor. Thus, most recycled materials will eventually be exempt from registration. *The HLG called upon the Commission to take a closer look into the possibilities for further reductions of administrative burdens, in particular for SMEs and repeats this advise⁵.*
- f. SME representatives called for the introduction of minimum thresholds for SMEs or small electrical or electronical equipment in respect of producer responsibility within the Directive (2002/96/EC; **Waste Electrical and Electronic Equipment**). *The HLG stressed 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. The HLG repeats this advise*

Brussels, 17 April 2009

⁵ Member John Hontelez objected and still objects to this call, as in his opinion in the political debate on REACH the interests of SMEs had already been too much in the forefront at the expense of the environmental effectiveness of REACH.