

**Evaluation by the Commission services concerning an  
Environmental Agreement submitted by  
PV Cycle to the Commission on 03 December 2010**

The Commission has on 13 December 2010 received an "Environmental Agreement on the separate collection and recycling of photovoltaic modules", submitted by PV Cycle via letter dated 03 December 2010, and inviting the European Commission to evaluate the Agreement.

The agreement, not based on a current legislative act, is an act of self-regulation as addressed in Communication COM(2002)412<sup>1</sup> on Environmental Agreements at Community Level. It does not constitute any kind of engagement for the European Institutions, and has no impact on the right of initiative of the Commission. Commission services have analysed the Agreement in light of the criteria laid down in COM(2002)412. This evaluation serves to inform the European Parliament and the Council of the Commission's evaluation and conclusion, as foreseen in COM(2002)412.

Cost effectiveness of Administration

The administrative costs for the Community institutions are expected to be low, because the Commission (as well as the European Parliament and the EFTA-Secretariat) are foreseen to be involved in the Agreement only upon their request. An advantage of the Environmental Agreement, related to administrative costs, could be to show that a collection and recycling system for e-waste can be organised in a harmonised manner for the entire EU market, potentially inspiring the further development of the Directive on waste electrical and electronic equipment (WEEE) in the long-term future.<sup>2</sup>

Representativeness

COM(2002)412 requires that the industry taking part in an agreement should represent the vast majority of the sector. However, this requirement cannot be interpreted in a way which leads to a restriction of competition in particular on the market for waste management systems. PV Cycle states, in the letter accompanying the Agreement, that PV Cycle represents more than 90% of the photovoltaic modules put on the market in Europe, and that the members of PV Cycle have concluded and signed the Agreement with a 80% majority. However, it is not clear whether that 80% majority is counted by company (one company, one vote), or by market share (value of sales), or by another criteria. Furthermore, it is not clear whether the Agreement signed by 80% binds all members of PV Cycle (90% of market share), or whether exclusively the signatories are bound. In addition, Article 7.2 of the Agreement allows signatories to withdraw with 90 days written notice. As a consequence the Agreement does not offer guarantees for continuity in time.

Quantified and staged objectives

COM(2002)412 underlines that objectives should be set in clear and unambiguous terms, and that for a long time span as is the case here, interim targets should be included. They should be measurable. The main objectives of the Environmental Agreement are to set up a dense network of collection points, collecting all end-of-life photovoltaic modules offered at collection points, and recycling the collected modules with a target of at least 85% by the year

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<sup>1</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2002:0412:FIN:EN:PDF>

<sup>2</sup> The WEEE Directive 2002/96/EC ensures the collection and proper treatment of a broad range of e-waste stream, but does not currently include photovoltaic installations in its scope.

2015. In order to become measurable, the intended density of the collection network should be quantified, potentially with interim targets. Collecting all modules offered at collection points is a clear commitment, but a very weak one compared to the quantified collection targets of the current and proposed WEEE Directive. Recycling the modules with at least 85% is a clear and measurable target. However, entirely missing are treatment requirements to ensure that environmental impacts are prevented in the treatment process and as concerns the remaining 15% of material.

#### Involvement of civil society

COM(2002)412 asks that all agreements should be widely publicised, and that all stakeholders should have the possibility to comment. Monitoring reports should also be publicised. PV Cycle has so far submitted its Environmental Agreement to the European Commission. It should also publish the Agreement on the PV Cycle website, and give stakeholders the opportunity to comment. The Agreement should also foresee that future monitoring reports are published online.

#### Monitoring and reporting

COM(2002)412 requires the Commission to verify that the Agreement contains a well-designed monitoring system with clearly identified responsibilities for industry and independent verifiers. The Agreement as submitted declares the intention to establish a monitoring system and a monitoring Committee, but does neither specify responsibilities, nor mention independent verifiers.

#### Sustainability

COM(2002)412 recalls the importance of the economic and social dimensions of sustainable development, and specifies that the protection of consumers interests should be integrated. The Commission services consider that the impact of the Agreement on these dimensions will be positive in this case, and that the level of the benefits depends largely on the ambition level and operating details of the collection system (see above). In addition, it is considered that the Agreement can only be said to be sustainable in the long run if a proper financing mechanism is agreed. Even if some of the signatories leave the market and/or withdraw from the agreement, it must remain ensured that the necessary financial resources are still available for the collection, treatment and recycling of the products placed on the market by that signatory. This requirement must, however, not lead to a situation which restricts or prevents competition in particular on the market for waste management systems.

#### Incentive compatibility

COM(2002)412 warns that the Agreement is only likely to deliver the expected results if it is consistent with other regulatory factors. The Commission services do not see any inconsistency with other efforts for increased collection, recycling and treatment rates on national and European level.

#### Conclusion

The Commission services conclude that the Environmental Agreement submitted is an agreement in a rudimentary phase: While the expressed objectives document the best intentions of the signatories of the Agreement, the actual text signed still lacks many elements

considered crucial for a Commission recommendation based on COM(2002)412 for the following reasons :

- In order for the ambition level of the Agreement to be equivalent to the ambition level of the current and proposed WEEE Directive, a concrete collection target must be agreed, e.g. based on new equipment sold annually, or on waste generated. It should be reminded that the initial intent of the industries as expressed in 2008 referred to a collection rate of 65%.
- The recycling target should be complemented with treatment requirements for the recycling process and for the remaining fraction of the material.
- A financing mechanism that ensures without violation of EU competition rules the availability of the necessary financial resources at the end-of-life of the modules, not only today at the start, is a crucial element for the sustainability of any e-waste management system.
- The Agreement should be published online by PV Cycle in order to allow for stakeholders and the public to contribute to the Agreement. For future monitoring mechanisms and reports, which should involve independent verifiers, online publication should also be foreseen.
- PV Cycle should clarify which % of producers placing photovoltaic modules on the market in Europe today (by market share, weight, or similar) are bound by the agreement.

As a consequence, the Commission does not propose to acknowledge the Agreement and does not propose to recommend the Agreement. The photovoltaic industry may take the above comments into account in order to submit a more comprehensive agreement in the future.