



Federal Council for Sustainable Development (CFDD-FRDO)

Advice on the European Commission's Green Paper on Integrated Product Policy

- **Requested by the Minister for Consumer interests, Health and Environment, Mrs Magda Aelvoet, in a letter of 26 February 2001**
- **Prepared by the product standards working group**
- **Approved by the General Assembly of 22 May 2001 (see annexe 1)**

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1. Summary of this advice

The Green Paper constitutes a very important step in the development of an integrated product policy (IPP). The Council nonetheless feels that implementation of certain initiatives should be taken further, in particular as concerns environmental liability, the process of "greening" of the procedure for awarding of public contracts and the dematerialization of the economy. The Council also calls attention, in this context, to the importance of the establishment of concrete objectives (see factor 4-factor 10).

As concerns the mix of different instruments in an IPP, the CFDD-FRDO favours maintaining a satisfactory balance between incentive and prescription. The role assigned to the authorities must, however, not be limited to facilitating the implementation of the IPP by the various actors



concerned. A process of appropriate consultation of these actors should be used to define the measures to be adopted, on a case-by-case basis.

The CFDD-FRDO also feels that the longest-lasting products should be made more attractive, without neglecting the social and economic impact of such a policy. Moreover, this differentiation between products would ideally be applied according to objective criteria that take external costs into account to the greatest extent possible.

Finally, the CFDD-FRDO sees a need for a binding stipulation that standards issued by standardisation institutes must take environmental considerations into account. As concerns application of the "new approach" by means of environmental harmonisation directives, policy-makers may not escape their responsibilities either.

2. Context of this advice

- [1] On 7 February 2001, the European Commission adopted a Green Paper on integrated product policy (IPP) with the goal of initiating a public debate on the proposed strategy and its components. The groundwork for this Green Paper was laid by a study conducted in 1997 by a private firm. This study was updated in 1998. At their informal meeting in Weimar (7-9 May 1999), the EU Environment Ministers adopted a joint declaration on the need for a European-level IPP. The European Commission hopes to publish a White Paper on this subject in late 2001.
- [2] The Council notes that a Green Paper on integrated product policy has been under discussion for some time and regrets that its publication has taken so long, given the importance of an IPP as concerns a strategy on diffuse sources of pollution and eco-efficiency in particular. This advice could have an impact on the ongoing preparation of the conclusions of the European Council. The advice of the CFDD-FRDO will also provide direction to Belgian officials responsible for drafting a master plan for products in early 2002.

3. General considerations

- [3] The Council is pleased to have an opportunity to issue an advice on the Green Paper on integrated product policy at the express request of Minister Magda Aelvoet.

The Council is of the opinion that this Green Paper is a key document as concerns the strategy for implementation of an integrated product policy at European level.

The development of an integrated product policy could make an important contribution to the establishment of sustainable forms of production and consumption, a priority issue within the Agenda 21 framework. From this standpoint, the issues discussed in the Green Paper fall precisely within the purview of the Council's advice.

- [4] The Council has learned that Belgium, due to the agenda imposed at European level, has already been compelled to take an official position. The Council nonetheless hopes that its advices will be taken fully into consideration in future European-level discussions.

4. Observations on certain key elements of the strategy for implementation of an integrated product policy

- [5] As noted previously, the Green Paper on integrated product policy is a crucial document for future developments at Community level as concerns products.

Nonetheless, the European Commission's Green Paper, which at this stage is only a reflection document, gives rise to debate on several points.



[6] In the present advice, the Council will limit its remarks to a certain number of issues that it considers of primary importance:

- Environmental liability;
- Public procurement;
- The "mix of instruments" ;
- Dematerialization ;
- The role of concerned parties;
- The price mechanism;
- Standardisation.

[7] The Council maintains that the definition of the concept of "integrated product policy" found in the Green Paper (p. 5), and likewise the scope of application of the proposed strategy, is not broad enough.

The Council therefore proposes to include the following four objectives in the definition of integrated product policy, with a view to incorporating the proposed strategy into the framework of sustainable development:

- Environmental protection: reduction of emissions -- prevention of waste -- limitation of harmful effects -- eco-efficiency -- dematerialization;
- Consumer safety;
- Optimal production conditions for workers;
- Consideration of economic data and concern for stimulation of technological innovation and market innovation (eventually, this will signify not only optimisation of existing products, but the replacement of products with services).

Environmental objectives must be taken into account at the source. Moreover, product policy must take a cradle-to-grave approach. In other words, the transfer of the environmental burden of a product from one environmental compartment (air, water, etc.) to another must be avoided to the greatest extent possible, as must transfers from one phase of a product's life cycle (exploitation of raw materials, production, distribution, use, waste treatment) to another. The following principles are also important:

- The precautionary principle (if the risk is not entirely known) in accordance with the European Commission's Communication of February 2000; the Council also refers to its advice of 17 October 2000 on the European Commission's Communication on the precautionary principle;
- Prevention of hazardous substances via the application of the substitution principle (replacement of products containing hazardous substances by other products that do not) in particular;
- Responsibility for environmental risks caused by products (polluter pays principle);
- Transparency.



A sustainable product policy does not take into account economic principles exclusively; these principles must be considered in the light of the possibility of a burden on the environment; social conditions must also be considered.

- [8] The Council observes that the documents produced by the European institutions in some cases contain inconsistencies that should be corrected.

Thus, as will be explained in more detail further on, there are certain contradictions between the text of the Green Paper and the following documents:

- The White Paper on future chemicals policy
- The White Paper on environmental liability
- Draft directives on public procurement.

While naturally understanding that these documents often emanate from different departments and aware of the tensions that may prevail within the European institutions themselves, the Council nonetheless asserts that harmonisation of declarations of intent is desirable within the context of sustainable development.

4.1. Environmental liability

- [9] According to the European Commission, "the draft directive on environmental liability should serve as a strong incentive for companies to prevent environmental damage for which they could later be held responsible" (p. 11 of the Green Paper).

The CFDD-FRDO notes that environmental liability for companies, as provided for in the White Paper, does not encompass product liability.

The Green Paper is therefore somewhat deceptive in this respect.

- [10] The Council notes that neither the White Paper on environmental liability nor the directive on product liability addresses the issue of environmental damage caused **by products**.

This gap could be usefully bridged in the future to provide a further incentive for the establishment and enforcement of an integrated product policy.

However, the development of this type of system of liability would be subject to the following conditions:

- 1° Such a system must be carefully thought out. Not only must the form this liability (objective or moral liability) will take be determined, but the types of environmental damage for which producers could reasonably be held liable, and the types of damage for which other interested parties, including consumers, could reasonably be held responsible, must also be defined. Minimum thresholds of liability must also be defined, given that such a system cannot cover every form of liability, no matter how small. Likewise, the system's consistency must be evaluated in the light of the various regulatory or other standards for product composition.
- 2° The possible development of such a system of environmental liability should take place in phases and taking account of priorities. Indeed, establishing a general system applicable to all products from the outset would appear to be very difficult.
- 3° The Council feels that the Belgian presidency should put the development of this system of product liability for environmental damage on its agenda.



4.2. Public procurement

- [11] The Council supports the movement to "green" procedures for awarding public contracts as described in the Green Paper.

It nonetheless observes, upon reading the two draft directives on public procurement currently under negotiation (COM(2000)275 and COM(2000)276), that the "greening" process envisaged is only at its beginnings.

Indeed, while the draft directive on public procurement of supplies does refer to "environmental characteristics" in the list of selection criteria to be taken into account, this inclusion would seem to be weakened by the fact that the criterion under consideration "must have a direct link with the contract" and that "the expected economic benefit must revert to the contracting authority".

The Council therefore encourages the Commission to persevere in making the environmental component a stronger presence in the texts in question. This system must meet objective and verifiable criteria to the greatest extent possible.

While methods for evaluation of these environmental characteristics and impacts should be provided for, the Council recommends using evaluation methods that are easier to apply and more flexible than EMAS or ecolabels alone, as they are too stringent in this particular situation. Criteria linked to production methods or FSC certification should be considered. The CFDD-FRDO is favourable to a life-cycle approach and feels that environmental impact should be assessed on the basis of a product's life cycle: use of raw materials, production, transport, consumption, disposal.

- [12] The Council furthermore supports the Commission's initiative of joining the EMAS system itself and giving preference to products that meet the criteria for the EU ecolabel.

4.3. Mix of instruments

- [13] Integrated product policy must strike a balance between prescription and incentive. Various instruments could be incorporated into the policy framework to this end:

- Legal or direct regulatory instruments: measures setting out obligations or prohibitions (for example, product standards);
- Economic or indirect regulatory instruments: levies, subsidies and other market-oriented instruments (environmental taxes, producer liability);
- Communication-based instruments: labelling and education. These instruments leave the consumer free to make informed choices. The importance of the consumer's choice is fully recognised, as the consumer is given the opportunity to make an informed choice. To this end, the consumer must be properly informed as concerns positive aspects (as provided for in the Green Paper on labelling) as well as negative features. The Green Paper makes no reference to this latter point.

The Council points out that the IPP must be implemented in harmony with the market, and in particular must not include any instruments likely to create distortions or introduce barriers to trade.

One criterion for the choice of instruments is that producers and/or consumers must have sufficient time to switch to environmentally friendly alternatives.

The IPP must allow producers to adopt models for efficient systems and encourage the dissemination of good practice. The CFDD-FRDO is of the opinion that environmental



agreements and voluntary agreements have a role to play in the development of an integrated product policy, under certain conditions. As concerns voluntary environmental agreements, it is important that:

- Objectives are determined in a concrete manner and coincide with the authority's general objectives for environmental planning;
- Interest groups in society (including environmental movements) have the opportunity, before the cooperation agreement is reached, to make comments;
- The cooperation agreement is applied in a transparent manner;
- In the drafting of a cooperation agreement, the binding nature of the agreement, legal security and periodic evaluation of potential sanctions are taken into account.

[14] Life cycle analysis is an important instrument in sustainable product policy. This analysis is, however, only one of the instruments that the IPP should use within the framework of a holistic approach. The Council's view is that development of tools for correct evaluation of the economic, social and environmental aspects of a life cycle analysis must be a priority. The environmental burden must not simply be transferred from one stage to another of a product's life cycle. Nor should there be a transfer from one environmental compartment (air, water, etc.) to another.

[15] Product standards may, preferably within a European context, be implemented with a view to limiting or even prohibiting the presence of substances harmful to the environment in products. On this subject, the Council refers to its advice of the same date on the European Commission's White Paper on a strategy for future chemicals policy.

[16] The CFDD-FRDO supports the idea of a lower VAT rate for more environmentally friendly products, but notes that the issue of environmental taxation is broader than VAT alone. Environmental taxation also encompasses ecotaxes, CO₂ levies, differentiated excise duties, environmental taxes, households' contributions to the environment and larger deductions for investments, for example; it has its place as an instrument within the framework of an integrated product policy where it gives better results in economic, social and environmental terms in comparison with other instruments.

[17] The CFDD-FRDO supports the idea of facilitating consumers' choices, in particular by the use of labels, and not only the European ecolabel. Energy labels for electrical appliances constitute another interesting initiative. What is important as concerns continued stimulation of innovation is that criteria for awarding of labels are reviewed regularly. This is already the case for the European ecolabel, but not the energy label. Attribution of labels should furthermore be submitted to an external system of verification.

4.4. Dematerialization

[18] Paragraph 5 of part 2 of the Green Paper (p. 5) refers to the dematerialization of the economy, mentioning that services could play an important role in the partial or total replacement of some products. However, the text specifies that "services are not the focal point of integrated product policy". The CFDD-FRDO regrets that the Green Paper does not position integrated product policy within the broader approach of eco-efficiency, in which services will play a much more important role.

[19] A statement of the problem must refer to the long-term objective, in particular extensive dematerialization. We must achieve a reduction in flows of materials and energy in the economy, in all products and production processes, over the next decade. The CFDD-FRDO refers, as a global social objective, to concepts such as "factor 4" and "factor 10".



According to the concept of "factor 4", the industrialised countries must become four times as efficient, over the medium term, in their use of raw materials and materials in general. Over the longer term, factor 4 will no longer be sufficient; society must achieve "factor 10". These concepts are making increasing inroads at international level, including within the European Union. The Council nonetheless observes that the Green Paper does not take these concepts into account and feels that the Commission should indicate, in the Communication that will follow the debate on the Green Paper, how the IPP will take account of these global objectives.

4.5. Role of concerned parties and local initiatives

- [20] Point 3 of the Green Paper stresses "**strong participation by all concerned parties at all levels of potential action**" (paragraph 1). For example, "**non-governmental organisations** will have an opportunity to participate as partners in the identification of problems and the development of practical solutions aimed at reducing products' environmental impact" (paragraph 3).
- [21] The Green Paper considers the role of the Commission and authorities in general as that of facilitation rather than direct intervention. The CFDD-FRDO's position is that the role of authorities is nonetheless important and can go beyond that of mere facilitators. In some cases, it may be necessary for the authorities to intervene. The mix of instruments (see specific paragraph) that gives the best results must be determined on a case-by-case basis to determine in which areas intervention by the authorities is necessary.
- [22] The debate among social actors or stakeholders can provide the authorities with information useful in shaping a good product policy. The broad outlines of this policy must be traced in advance so that the debate among social actors concerning integrated product policy can be conducted in a relevant and efficient manner. The Green Paper has not formulated clear principles or rules for the organisation of the stakeholders' debate or the level at which it should be organised in the interests of efficiency in this context. Neither is there any provision for systematic evaluation of similar experiences from the past and the lessons that could be drawn from them.

4.6. Price mechanism

- [23] The CFDD-FRDO asserts that the economic, social and environmental aspects of problems must be addressed in an integrated fashion. The CFDD-FRDO emphasises the need to strike a balance among these three aspects. This may mean that compensatory measures are necessary in the environmental and social areas. The Council maintains that prices should incorporate social and environmental costs.

The CFDD-FRDO also believes, concerning taxation on products, that price plays an important role for the consumer. Providing better information to the public is therefore not enough. The Council asks, where necessary and possible, given the economic, environmental and social considerations, that products be made longer-lasting and more attractive than conventional products from a financial standpoint as well. Differentiation must ideally be based on objective criteria that incorporate external costs to the greatest extent possible. The Council feels that these measures must be harmonised in so far as possible at European level and that the member states must apply an active policy in this area.



4.7. Standardisation and new approach

- [24] Within the context of the IPP approach, the Commission wants to make greater use of standards developed by standardisation bodies such as CEN, CENELEC and the ETSI¹. Historically speaking, the process of standardisation within CEN, CENELEC and the ETSI proceeds from the industrial world, which often makes use of it, independently of any constraint under European legislation. The Council by no means contests the necessity of this process.

One potential area of action, according to the Green Paper, is offered by "possibilities for new approach legislation to promote eco-design" (p. 24). New approach directives are measures for integral harmonisation setting out essential and binding requirements. One way of complying with them is to apply "harmonised standards" established by CEN, CENELEC or the ETSI at the Commission's request. Compliance with these harmonised standards automatically results in the product being considered compliant with existing legislation and therefore eligible to circulate freely within the Community market. The new approach has not yet been applied in the area of the environment except in the case of the packaging directive (94/62/EC), and has been the subject of much discussion within this context. These discussions were also conducted within the CFDD-FRDO at the time and culminated in an advice on the packaging standards of the European Committee for Standardization of 28 November 2000.

- [25] The Green Paper indicates that standards "are the result of efforts to reach a consensus in which all interested parties may participate" (p. 23). In practice, the costs of active and full affiliation are so high that participation in the process by some parties (including environmental organisations) has so far proved impossible.

- [26] Conditions for standardisation in the environmental field, within the framework of the IPP, are as follows, in the CFDD-FRDO's advice:

- The approach must consider product life cycles (from raw material to waste) from an environmental point of view;
- Policy-makers must not shirk their responsibilities. Within the new approach framework, the essential requirements of the directive and mandate must be defined very clearly and specify explicit environmental objectives (long term, quantitative or qualitative objectives or procedural principles);
- All interested parties, at European as well as national level, must be able to participate actively and directly in all relevant deliberations. All groups must have secure financial resources;
- The entire process of standardisation must be transparent and take into account various aspects of the public interest.

- [27] It must be stipulated in a binding manner that standards issued by standardisation bodies such as CEN, CENELEC or the ETSI, including those established independently of the new approach, must take environmental considerations into account.

¹ CEN, CENELEC and the ETSI are respectively the European Committee for Standardization, the European Committee for Electrotechnical Standardization and the European Telecommunications Standards Institute.



Annexes

1. Number of members present and represented with voting rights at the General Assembly of 22 May

- 2 of 4 chairman and vice-chairman
- 4 of 6 representatives of non-governmental environmental protection organisations
- 3 of 6 representatives of non-governmental development cooperation organisations
- 2 of 2 representatives of non-governmental consumer protection organisations
- 5 of 6 representatives of workers' organisations
- 4 of 6 representatives of employers' organisations
- 2 of 2 representatives of energy producers
- 5 of 6 representatives of the scientific world (*)

Total: 27 of the 38 members with voting rights (*)

(*) one representative of the scientific world has yet to be appointed

5.2. Meetings for the preparation of this advice

The product standards working group met on 12 and 31 March and 2, 20 and 27 April, as well as 7 and 14 May 2001 to prepare this advice.

5.3. Participants in preparation of the advice

Members of the Council with voting rights or their representatives

- Prof. Luc LAVRYSEN (UG) – chair of the working group
- Mrs Delphine MISONNE (Facultés St. Louis) – vice-chair of the working group
- Mrs Esmeralda BORGIO (BBL)
- Mrs Paulette HALLEUX (DETIK)
- Mr Jean Pierre JACOBS (Groupement de la sidérurgie)
- Mr Joris KERKHOFS (ACV)
- Mr Claude KLEIN (Fedichem)
- Mr Jacques KUMMER (ULB)
- Mrs Edilma QUINTANA (CNCD)
- Mrs Anne DE VLAMINCK (IEW)
- Mrs Karola TASCHNER (EEB)

Invited experts and other participants

- Mr Franco GRILLI (Ferrero)
- Mr Pascal LEFEVRE (European Commission, Directorate General Environment)
- Mr Bernard MAZIEN (Federal environment administration)
- Mrs Sophie de Loddere (Universiteit Gent)

Secretariat

- Mr Jan DE SMEDT, Permanent Secretary
- Mr Karim GHARBI, Scientific Advisor