

**Position of the European Chemical Industry Council (Cefic)**

**on the**

**COMMUNICATION FROM THE COMMISSION  
TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN  
ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE  
REGIONS**

**Public procurement for a better environment**

Brussels, 13th of August, 2009

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The European Chemical Industry Council (Cefic) is fully committed to the objective of improving the quality of life for present and future generations and therefore notes with interest the Communication from the Commission on public procurement for a better environment.

Cefic supports the Commission in trying to establish a harmonised base for Green Public Procurement (GPP) in order to overcome the market fragmentation caused by conflicting national GPP criteria. An appropriate pan-European scheme that is consistent with the principles of the Internal Market and the principles of sustainability will be welcomed, as long as the criteria are based on sound science and are set up in a consistent and transparent way involving all relevant stakeholders.

**General considerations**

The position of the European chemical industry can be summarised as follows: it

- Provides sustainable solutions for societal challenges such as climate change and environmental protection.
- Considers that sustainable development is not limited to the pursuit of environmental protection alone, but also aims to improve the quality of life in a way that mutually reinforces economic growth and social welfare.
- Expects the common GPP criteria to be fully in line with the concept of sustainable development and Sustainable Public Procurement, which means that besides environmental aspects, also economic and social aspects and the product's function are taken into account in a cradle-to-grave approach along the supply chain.

- Insists that 'green' public procurement consistently applies well-defined criteria based on sound scientific evidence, takes a full life-cycle perspective, and remains sufficiently flexible to drive product development by adopting a risk-based approach rather than restricting chemicals on the basis of their classification alone.
- Insists that criteria derived from voluntary schemes such as Ecolabelling remain voluntary under GPP.
- Emphasizes that the common GPP criteria should neither lead to distortions in global competition by putting European products at a disadvantage nor create trade barriers within Europe.
- Strongly warns against adopting common GPP criteria that duplicate or contradict REACH.
- Opposes common GPP criteria for construction products, as they are merely components of buildings. Instead, Cefic supports a holistic approach, i.e. that the joint performance of construction products is evaluated at the level of the building (by means of Directive 2002/91/EC on the energy performance of buildings).
- Regrets that the consultation with stakeholders on the first set of common GPP criteria has not been sufficiently inclusive.
- Insists that transparency and the involvement of all relevant stakeholders are guaranteed throughout the entire criteria-setting process.
- Welcomes that the consultation with stakeholders on the second set of common GPP criteria has been announced publicly on the European Commission's GPP website.
- Supports the approach taken for the GPP Training Toolkit introducing two groups of criteria, i.e. core criteria (self-assessed) and comprehensive criteria (equivalent to Ecolabelling criteria), as long as both groups of criteria are objective and based on sound science. The current core criteria should be replaceable by self-regulatory initiatives by the industry sector concerned.
- Emphasizes that, after transposing the common GPP criteria into their national action plans, Member States need to apply them uniformly in order to avoid distortions of the Internal Market.

## **Detailed considerations**

### **Minimum requirements and benchmarks**

Cefic supports the principle of setting minimum technical specifications and benchmarks in the common GPP criteria, as long as they are focused on the Internal Market and ensure that they provide business with a long-term perspective.

Cefic emphasizes that the revision periods of these minimum requirements and benchmarks have to be long enough to allow innovative products to reach the market and to allow innovative chemical producers to enjoy acceptable returns on their investments. The absence of a long-term planning horizon would hamper investment in research and development and therefore innovation and the competitiveness of the European chemical industry.

### **Voluntary nature of Ecolabelling criteria**

Cefic strongly supports the principle that those common GPP criteria that are taken over from voluntary schemes such as the European Ecolabel and national ecolabels must remain voluntary. Cefic therefore questions the proposal to use the comprehensive criteria for setting new benchmarks in the future, as this would make the voluntary Ecolabel criteria de-facto mandatory for companies who want to enter the market for GPP. Ecolabels are intended to be labels of excellence and therefore not suitable for setting minimum requirements: the EU Ecolabel, for example, now aims at only the top 10-20% of products. Moreover, as mostly standard products are provided for GPP, the new benchmarks would rapidly spill over and set minimum requirements for the whole Internal Market, thereby contradicting the Ecodesign Directive.

### **Consistency with REACH**

The European chemical industry is fully committed to continuously improving its environmental performance and to providing consumers with products that meet very high levels of safety. Cefic therefore supports the risk-based and life cycle-based approach taken by REACH to ensure the safe use of hazardous chemicals.

However, from the Communication on GPP and the corresponding Staff Working Document, it does not become clear whether the chemicals-related common GPP criteria that were derived from the European Ecolabel and national ecolabels have been subject to scrutiny regarding their scientific soundness. Experience has shown that ecolabel criteria have often been driven by a worldview that sees chemicals per se as bad and rejects scientific evidence of insignificant risk. This leads to an unjustified stigmatisation of chemicals and to a preoccupation with chemical hazard reduction and precautionary bans, often at the expense of the environmental and socio-economic benefits that a full life-cycle assessment would show.

Today, the old hazard-based approach to the safety of chemicals has been replaced by the risk-based approach of REACH: instead of looking at the R phrases that tell you just about the intrinsic properties of chemicals, REACH goes further and requires a risk assessment of the exposure of the consumer and the environment that results from the way in which chemicals and the products that contain them are actually used.

With the REACH regulation, the European Union has adopted one of the most comprehensive and demanding chemicals policy instruments in the world. The main aims of REACH are to improve the protection of human health and the environment and to foster the growth of eco-innovation within Europe. There is no need to duplicate the provisions of REACH under GPP, e.g. in the criteria of the GPP Training Toolkit.

Therefore, and within the frame of better regulation, the common GPP criteria must be consistent with the legal requirements of REACH: Products containing chemicals for which it has been demonstrated by scientifically sound risk assessments under REACH that they can be safely used by consumers should be eligible for GPP.

- For some product groups, the publicly procured products are used by specifically skilled professionals using quite different processes and equipment than under domestic conditions. In those professional applications, where standard consumer use is not relevant or is less eco-efficient, the common GPP criteria should provide requirements adapted to professional use.

In some cases the risk-based approach is already mirrored in the GPP Training Toolkit: for example, it restricts the use of sensitising substances in hand-washing detergents (where there would be direct exposure of the skin) but allows for their use in dishwasher detergents (where there is no direct exposure and therefore a low risk for the consumer). However, in most other cases the restrictions are still hazard-based. Cefic strongly warns against adopting common GPP criteria that contradict the fundamental scientific principles of REACH or the findings of the EU's Scientific Committees on Consumer Safety (SCCS), on Health and Environmental Risks (SCHER) etc.

### **Consistency with Sustainable Public Procurement (Marrakech Process)**

In accordance with the Johannesburg Plan of Implementation of the UN World Summit on Sustainable Development, the overall environmental and socio-economic impact during the whole life cycle of a product has to be taken into account for determining its suitability for public procurement:

- Energy-saving light bulbs, for example, contain tiny amounts of mercury (toxic) but help to reduce mercury emissions from coal-fired power stations due to their lower consumption of electrical energy compared to traditional light bulbs.

- Some industrial paints contain hazardous reactive chemicals but have a better environmental performance compared to non-reactive paints, as their higher durability translates into less need for re-painting or repair, thereby reducing consumption of materials and emission of volatile organic compounds (VOCs). Furthermore, once such paints are applied and cured, the hazardous substances have turned into non-hazardous polymers.
- Concentrated detergents may receive a more stringent hazard classification than diluted detergents, but their environmental impact is lower, as reduced demand for packaging material and transport fuel will result in lower resource use, less waste generation, and reduced greenhouse gas emissions.

Finally, the product's function has to be taken into account: The paint for the outside of public buildings, for example, should by common sense be durable and not readily biodegradable, and it is obvious that cleaning products with disinfecting effect for hygiene purposes (which involves killing microbes) will frequently be labelled as hazardous for the environment.

These examples show that a life-cycle-based view and a product evaluation integrating several environmental, social, and economical factors are necessary to come to a valid result concerning the usefulness and sustainability of a defined product and its applications. Defined tools that consider these different issues of sustainability, like Eco-Efficiency, SEEBALANCE, and socio-economic analysis as used within REACH, should generally support decision-making.

## Contact

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