

**EEB Response to the Commission Green Paper
on Integrated Product Policy**

Brussels, April 2001

The European Environmental Bureau (EEB)

The EEB is a federation of 135 environmental citizens organisations based in all EU Member States and most Accession countries, as well as a few neighbouring countries. They range from local and national to European and international. The aim of the EEB is to protect and improve the environment of Europe and to enable the citizens of Europe to play their part in achieving that goal. The EEB office in Brussels was established in 1974 to provide as a focal point for its members to monitor and respond to the emerging EU environmental policy. It has an information service, it runs nine working groups of EEB-members, it produces position papers on topics that are, or should be, on the EU agenda and it represents the Membership in discussions with the Commission, European Parliament and the Council. It closely co-ordinates EU-oriented activities with its Members on the National levels. Furthermore it follows closely the EU enlargement process as well as some pan-european issues like the follow up of the Aarhus Convention.

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1. Introduction

The EEB sees the need for a new strategic focus on ecological product policy. As an increasing share of environmental degradation derives from diffuse sources a more systematic approach on products is needed. Since any product policy affects both, the internal market and world trade issues, a strong profile of the EU is necessary.

The EEB has a high profile on product related environmental policies, namely in the field of waste related issues, chemicals policy, ecolabels, public procurement, standardisation, environmental management systems, and regulation addressing motor vehicles.

Based on its experience and on the responses of its member organisations, the EEB strongly feels that the Green Paper fails to address the key challenges of ecological product policy. The IPP plans of the Commission risk to adopt a “business as usual” policy. The EEB asks for more commitment and political steer by setting ambitious targets, getting the prices right, better legislation and a strong enforcement.

This paper focuses on the main shortcomings and strengths of the Green Paper and makes some suggestions. The response is structured according to the questionnaire of the Commission.

2. General Assessment

The EEB agrees that IPP should cover a broad range of instruments. This applies especially to taxation, fiscal incentives and low VAT on environmentally friendly products, the promotion of criteria led ecolabels and green public procurement. If applied they may form a powerful set of tools for a push and pull approach, to green the environmental performance of products.

However the commitment to apply them is subject to further scrutiny and feasibility studies. In practice the range of really applied instruments might be much smaller, if the Commission fails to develop internal consensus, leadership and orientation and if governments continue to block progress in a common approach towards environmental taxation. So there is the risk that only the voluntary, informational and consensual instruments will survive

The Green Paper has a number of serious shortcomings.

Below, the 5 major shortcomings and the EEB's responses:

1) The Green Paper fails to tell exactly which environmental objectives IPP should achieve. Without clearly defined levels of environmental ambition not much will change in reality.

In the Green Paper the Commission does not make the crucial political choice, if IPP is targeted towards the frontrunners of ecological product innovation, wants to gradually improve the performance of the bulk of products or if it is trying to “cut off the tail”, to reduce or stop the production of the least performing products. Policy style and choice of instruments will have to differ according to the “target” levels of performance. The Green Paper lacks an explicit economic life-cycle approach of products, which means an overall strategy addressing product innovation, market diffusion, mature products, decline and phase-out.

We make therefore the following suggestion for a strategic IPP approach:

The EEB suggests a policy approach, aiming to increase market shares for innovative products. Third party verified ecolabels play a key role in setting criteria for the leading market segment. Furthermore a policy to formulate mandatory minimum performance conditions for the worst performing products is needed. The middle field then will move, pulled by new market opportunities and pushed by the threat of legislation.

2) **The Green Paper also fails to make a systematic assessment of past experiences with product policies, the state of EU product policy, new policy trends with ramifications on products (e.g. in chemicals policy and waste policies) and hence the needs for focused priority action.** Also national experiences with soft policy approaches should be systematically assessed. Dutch environmental NGOs for instance deplore that IPP did not change much the product performance in the Netherlands. Without a proper strategic analysis the IPP paper therefore hangs a little bit in the air. To get more realism into IPP, we suggest the following:

The EEB suggests to start IPP with a fair assessment of what has been achieved and which attempts have failed already. On this basis strategic lessons should be drawn.

3) **The EEB disagrees with the role the Commission gives itself in the Green Paper. The Commission sees itself as facilitator.** The EEB suggests a proactive Commission fighting for the public good and not one that throws the responsibility for the design of IPP into a poorly guided and unbalanced multi-stakeholder dialogue in which industry can easily marginalise environmental concerns. Despite its obvious orientation towards consensual multi-stakeholder processes, the Green Paper fails to define clear-cut principles and rules on how to organise such processes in a way that they can deliver substantive changes. **The Green Paper is missing systematic assessments of past experiences and appropriate lessons.** The Auto-Oil Model, often heralded as the model, obviously had many shortcomings, which need to be addressed before starting similar processes.

An important condition for a successful IPP approach which makes a difference is, that the Commission uses its right of initiative and does more than only facilitating an open ended process:

The EEB calls for the Commission to make full use of its institutional powers and to actively drive the process, and not restrict itself to a facilitator role .

4) The EEB is surprised to see that **the Green Paper does not properly address the often debated lack of integration of environmental interests into the EU's privatised standardisation process.** The Commission is missing herewith an

opportunity to announce a strategy for greening standardisation despite the pressure of the Environment Council, the Parliament and the promises of Environment Commissioner Wallström.

The EEB calls for a comprehensive strategy to green standardisation by the Commission and to wait with further experiments until such a strategy is in place.

5) Finally, the EEB regrets that **the potential of a service oriented approach is not systematically exploited by the Commission IPP strategy.** We know that consumption growth may eat up most of the eco-efficiency gains of products. Therefore the level of consumption of products should be within the scope of IPP, not only the performance of the products themselves. Some of the issues related to resource efficiency and dematerialisation might also be addressed by the respective thematic strategy announced in the 6th Environmental Action Programme (EAP). However there is an obvious link which should not be underestimated. Lifestyles, consumption patterns and levels reflect on the one hand cultural traditions, wealth and mass-media publicity, on the other hand they are also a reaction to a price and subsidy system and public infrastructures, which discriminate eco-efficient and eco-sufficient lifestyles. There is a policy dimension in consumption patterns, which should be discussed strategically within IPP.

The EEB insists that the consumption level should be as a priority on the IPP agenda.

The EEB is willing to address those shortcomings in a constructive dialogue with Community institutions in the course of the subsequent political and technical processes. **A top priority is to refocus the debate as soon as possible from abstract philosophy to specific political projects.** Since the capacities of environmental organisations to effectively participate in product panels in a comprehensive manner are limited, the focus should be set on the horizontal instruments suggested by the IPP paper (e.g. Public Procurement, Tax rebates for ecolabeled products, product safety sheets etc.).

3. The IPP Approach

Question 4 of the Commission Green Paper on IPP: "What is the overall view of stakeholders on the strategy and its elements?"

.....integrated

The EEB welcomes the IPP philosophy to consider the impact on the environment as a whole during all stages of a life-cycle of a product. Life-cycle costing, however, would not hit the target or would be a matter of endless controversies.

In order to prevent "integration" from remaining a purely philosophical concept, priority setting is needed. Not all impacts of a product are equally significant. The priority issues of a product or product group (e.g. take existing legislation on cars as a model)

should be addressed first. Guidance on priorities can be drawn from the 6th EAP, which puts climate protection, resource efficiency, health and biodiversity at the forefront. What is needed is hence a targeted life-cycle approach, focussing action on the most relevant aspects.

..... products

IPP should not only be targeted at innovation at product or product group level. This would narrow down the scope of the debate and hence miss many innovation opportunities. Therefore, to have the wider range of alternatives, the EEB suggests different options to satisfy given needs or sometimes even policies addressing the level of consumption on the agenda. To Rethink products from the perspective of the service they deliver is needed. Alternatives to a product should be assessed and policies to promote alternatives should be designed, if those alternatives have a better environmental performance. There is ongoing research on the environmental and market potential of substituting products by services which needs further follow-up in the IPP framework. Mrs. Wallström gave recently in a speech a good example of the potential of a service oriented approach:

“The US carpet producer Interface. Their CEO once wondered how many raw materials the company and its suppliers extracted from the earth every year: The result was: 555,206 tonnes in 1995, most of it in the form of oil, coal and natural gas. An impressive figure! Interface then set out to reduce this figure by cutting waste, and within three and a half years decreased total waste by 40%, with a saving of 67 million dollars to the company. This is just a first step, though, as Interface wants to move to zero-waste. Interface also redesigned its product to produce carpets with lighter face weights and better durability. Another innovation is that Interface is now leasing carpets rather than selling them. They sell the service of the carpet in terms of comfort, acoustics, cleanliness and so on, not the product. This allows them to take back old carpets or those parts of old carpets which are worn out and re-use or recycle them.”

IPP should fully incorporate such insights!

..... policy

Policy should be more than facilitation. The existing system of pollution control and waste management for cars would not be in place with a pure facilitator role of the Commission. The same applies for the second priority group targeted by existing product policies, the electronics sector. Also other product groups, like detergents, paints, pesticides are under a legislative control system to prevent harm from their use. Any serious product policy therefore must have legislation as one of the options to prevent harm and to drive performance. A consensual approach might only be able to address certain market segments. A “consensus” filter (meaning that only consensual approaches are promoted) therefore risks to violate the “integration principle”.

The Commission has made some experiences with consensual multi-stakeholder processes on products, e.g. in the context of priority waste streams programmes. They failed and the Commission decided to go for a more confrontational approach afterwards. Considerable time was lost. Therefore:

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| The Commission should not wait once more to see if a consensual approach |
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works or fails before it decides to propose legislation. Consultation, negotiation and proposing legislation should be parallel and not sequential actions.

The EEB wonders why the Commission has defined the role of stakeholders only in terms of the benefits. It is puzzling that a green paper, strongly advocating multi-stakeholder processes, does not develop a perspective on how to organise them. This must be addressed:

The EEB disagrees that stakeholder consultation should only be structured on a case by case basis. Some general principles on how to organise multi-stakeholder processes should be defined (see below). The EEB wants a structured dialogue!

We would like to emphasise, that there is a major difference between the political culture in Sweden and other Nordic Countries and the EU: it is much easier to identify the front runners, the innovators and the real change agents, driving at the same time for innovation in small countries with a long environmental history, than at EU level.

In Brussels conservative sector or cross-sectoral federations are dominating the debate which have to find a common ground between their best and their worst performing members. The messages by those federations do not necessarily reflect the willingness of their most advanced members to move. On the other hand it is difficult for the Commission to identify representative organisations of environmental innovators.

There is therefore a considerable risk that consensus policy ends up to be no change or business as usual policy.¹

Consensus only works where everyone is in a win situation. Effective product innovation necessarily has a market constraining effect for certain substances and products and hence is not always a simple “win-win” policy. It is therefore a paradox, that issues like waste prevention and resource efficiency move up the Commission agenda at the same time as consensus oriented policies. Might be, that the Commission will not get both at the same time: waste prevention and consensus with conservative federations.

We therefore suggest to systematically inquire into strategic alliances with environmental innovators. There are win-win constellations with recycling industries, leaders in ecodesign, new service operators, reuse system providers etc. We suggest targeted co-operation with such industries instead of seeking consensus with the laggards, ecodumpers and conservative associations at all price.

Therefore we reject a simple notion of the Commission as “facilitator”, as explicitly mentioned in the Green Paper on Integrated Product Policy. We ask for leadership and willingness to fight for environmentally and economically justifiable solutions.

Sound arguments, including precaution as accepted justification - should guide policy not simply the middle ground of non-conflictual policy elements.

¹ The consensus argument in a similar context, see also: Towards a low waste Europe, EEB Publication 7/2001

Therefore we believe, that the Commission needs more resources for its own research. We believe that the Commission needs an independent knowledge base as an essential tool to validate stakeholder arguments and to make well informed choices.

We furthermore think that next to some industries, several member states, regions and municipalities are pioneering in promoting greener products and services. They often face EU policy constraints (e.g. green public procurement). **We strongly suggest that the Commission continues and intensifies informal co-operation with those public change agents and overcomes IPP barriers set by the EU.**

We would also like to express reservations on the fashionable trend towards voluntary agreements. The nearly 2 years negotiations of a voluntary agreement on batteries so far has been a successful delay strategy rather than offering environmental improvements. Also the offers of the PVC industry are far from being equivalent to control measures eventually following the Green Paper. Voluntary approaches are not an objective in itself, but result of a determined goal oriented policy agenda. Quality conditions as laid down in the 1996 Communication of the Commission must be ensured by a framework directive on Voluntary Agreements. Parliament and Council need to have a stronger say. Repeated NGO consultation from the early stages of negotiations needs to be ensured.

Last but not least, we strongly believe that any redefinition of the role of the Commission has also implications on the role of Environmental NGOs. A Commission taking care for the environment finds in environmental NGOs a natural co-operation partner. A Commission as facilitator, risks that the task to defend environmental interests is imposed only on the shoulders of weakly resourced European environmental NGO federations. If public interests are supposed to play a role in the forthcoming processes, the Commission needs a credible strategy to compensate for its own withdrawal from responsibility.

NGOs would however prefer a strong Commission with a firm commitment to green consumption and to protect the environment.

In any case we would like to warn from the illusion, that multi-stakeholder dialogue processes are cheap processes allowing for a lean Commission. We strongly believe, that the opposite is true. We summarise:

The EEB therefore wants dialogue oriented approaches to require a more active Commission, intensive consultation and moderation processes, more investments to solve controversial issues etc. This is not necessarily compatible with a lean administration. The Commission furthermore should clearly indicate, how it wants to privilege innovating industries in the process, whether it wants to achieve consensus with industry as a whole or only parts of industry and how the other Community institutions will be involved in the processes.

4. The Overall Strategy

Question 4.1: Is the proposed overall strategy appropriate...?"

The EEB strongly supports the use of market instruments to promote green consumption. Tax policy and other incentives may be a powerful tool to create a market for greener products and hence to push for the wider diffusion of ecological product and service innovations.

However, key to any debate on instruments is what is to be promoted. For the time being the EEB does not see an alternative to the third party verified European Ecolabel and similar national ecolabels. Also the European labelling on the energy use of certain household appliances proved to be a very effective tool to drive the market towards a higher level of environmental performance.

The EEB therefore wants that the criteria of third party verified ecolabels to be used as a starting point for improving the environmental performance of products.

Green Demand Creation and Diffusion of innovative products should be the key focus of IPP. If there is a market for green products and services and a clear orientation towards innovation trends (energy efficiency, hazardous free products, priority to material recovery), business will develop further tools for ecodesign.

5. Instruments

In order to drive innovation we need incentives, information and regulation. Regulatory instruments should be applied to prescribe a minimum level of performance. Minimum performance standards for the use phase or substitution of certain materials should be prescribed by legislation, as it was in the case of cars or electronics. The internalisation of external costs is one key precondition that the market works properly. Another one is information. They should be seen together.

The Green Paper fails to address legislation with minimum performance criteria as a key element of IPP.

The EEB comments on the other instruments are as follows:

5.1 Getting the Prices right

Question 4.1.: How can IPP contribute to getting “the prices right”?

The EEB supports an ecological tax reform which has an impact on product choices where it has been introduced. The effects of a reduced VAT for ecolabeled products might be more limited in scope. Nevertheless a reduced VAT could be an important incentive for producers and retailers to advance the ecolabel. Other market based instruments which should be seriously assessed, are virgin materials taxes in order to promote recycling or substitution or tradable CO₂-credits in order to create incentives for lower CO₂ emissions. Also tax differentiation was effective in phasing out

unwanted additives and promoting safer substitutes (e.g. for lead in petrol or on packaging). We therefore suggest a tax on packaging material. We also suggest to promote tax reductions for the services and repair sectors.

The EEB however understands the reluctance of the Commission to propose specific economic instruments, as long as they may face the same fate as the famous energy/CO₂-tax proposal from 1992. The EEB therefore suggests to support the use of such instruments at national level and to make use of the mechanisms of enhanced co-operation of like-minded countries.

The EEB suggests to start an initiative for a reduced VAT for ecolabeled products immediately.

Beyond those traditional fiscal instruments the EEB suggests further initiatives on product liability and extended producer responsibility.

The existing product liability regime addresses defective products and focuses on traditional damage only. The scope and the principles of the future environmental liability regime will be much broader. However, according to the Commission plans, environmental liability will only have a subsidiary function to product liability. The narrow principles of product liability will be applied first. We believe that product and environmental liability are two different regimes for two different purposes. They should therefore be used in a complementary way. Only under such conditions environmental liability will become a useful tool for IPP.

The EEB insists on extending Environmental Liability principles to products.

Extended Producer Responsibility approaches are a political success story for cars and electronics. The instrument is widely accepted by policy makers, producers and NGOs. Its extension to other product groups, such as packaging, building and construction material, furniture, carpets, should therefore be analysed and promoted.

The EEB calls upon the Commission to identify additional waste streams, where producer responsibility should be applied.

5.2 Consumer Information

Question 4.2.1: How can consumer demand be greened most effectively?

The EEB supports the further development and promotion of Type I² Ecolabels.

Type II Ecolabels need strong verification mechanisms in order to avoid wrong claims. Self-claims as a tool for consumer information cannot be considered as a basis for any

² According to ISO Standards Type I ecolabels are third party verified, criteria based. Type II labels are self-claims and Type III labels provide indicator based information on the environmental performance of the products.

policy support. The information provided is selected by the producer according to his marketing interests and not according to the most important environmental impacts of the products. This also applies to Type III labels.

The EEB does not consider Type III labels as a useful consumer information tool, however it may contribute to better comparative transparency on the performance of products.

Shopping cannot be a scientific exercise, requiring a natural science studies programme and comparative assessment skills. Type III labels therefore are mainly useful for professional uses. Performance indicators need standardisation so that claims of industries on their products can be made comparable. Without comparability Type III labels are useless.

Next to labelling, independent quality assessments by independent testing organisations have a strong awareness raising function. Reports from test-achat or Öko-Test frequently have an awareness raising function, often influence consumer choices and are used by the environmental Commissioner in her speeches. The test results are widely communicated through mass-media. Their information is considered to be reliable and credible to a wider public. For the time being a European network of such testing organisations and magazines does not exist yet. Such a European network might provide for synergies and widen the outreach of testing results. Financial support to such a network could therefore be an important tool for greening consumer demand.

The EEB strongly suggests the establishment of a European network of national Eco-test organisations and magazines, providing and disseminating comparative quality testing.

5.3 Public Procurement

Question: 4.2.2: How can “green” public procurement be promoted?

Public Procurement could act as one of the few powerful incentives to create a market for environmentally sound products. The EU is currently in the process of reviewing the Directives on Public Procurement. The EEB welcomes in principle the Commission Proposals envisaging that “environmental characteristics” and EMAS registration may be used as performance criteria. This would, however be subordinate to the requirement that “the economically most advantageous tender for the contracting authority” has to be awarded. Furthermore we observe that life-cycle thinking has not yet become part of the Directives although it is acknowledged widely in EU policy. The slot opening to the environment is so narrow that it will always be a question of interpretation. On the contrary, in the past the Commission has demonstrated to be hostile to integrating environmental concerns into public purchasing. Not few public authorities have been sued for violating the public procurement directives when they had awarded products on environmental grounds with a purchase contract (e.g., Stockholm: Green electricity, Helsinki: gas fuelled buses etc.).

We observe that although the WTO Agreement on Government Procurement would allow for more flexibility in favour of the protection of the environment, the Commission Proposals will continue violating the Treaty by using the argument environmental

protection to be a trade barrier. In its attempt to open up and to have a discipline on public procurement for all members of WTO, the Commission DG Internal Market is apparently willing to sacrifice environmental and social concerns.

This is the reality. So most of the text of the chapter on public procurement is unfortunately wishful thinking, how good it may read. "Awareness rising initiatives of public authorities" will be of little use if these are allowed only very restricted product criteria for "green" purchases. It is e.g. still a matter of controversy whether products awarded the life-cycle based EU Eco-label are to be allowed as criteria in calls for tender. If public authorities get aware that they may be buying trouble they get discouraged right away.

The value of public procurement to become an instrument in IPP altogether will depend on how Council and Parliament are deciding on the public procurement directives. If the status quo will be maintained, i.e. the exclusion especially of the life-cycle phase of production processes and methods, it will be only of rather restricted benefit.

It is one of the weaknesses of the IPP concept that the decisions on its effectiveness are not in the hands of DG Environment. The Internal Market Council and the European Parliament have to be aware of their responsibility for the environment when agreeing on the public procurement directives.

The EEB supports the promotion of green public procurement. However, we insist that the current revision of the EU public procurement legislation becomes fully consistent with the IPP principles of a life-cycle approach.

5.4 Business Leadership

Question: 4.3.1 How can more reliable information be generated on the environmental characteristics of products?

We welcome the development of Product Data Sheets. But they should not be established by ISO or CEN processes. We suggest an independent product office to manage product files.

It is imperative that every company placing products on the market is required to prepare a product file containing qualitative data with respect to the potential environmental impacts of the product in every stage of the life-cycle, from raw material, agricultural products, processing, transport, use, recycling and so on. A proposal for this stage could be that the individual companies will have to fill in a matrix, like the one used for the Ecolabel Regulation. On this matrix only the importance of the environmental impact caused at every stage of the life-cycle of a product will have to be indicated by a 1, 2 or 3 star (★) system (1 for less impact 3 for serious potential environmental impact). These data could be collected by the federations of the respective industries and submitted to the Commission for the first screening process to prioritise product families for which further measures will need to be taken. Manufacturers of the product families that will be assessed to cause the biggest threat for the environment, should be asked to submit more detailed product files containing quantitative data of emissions, substances used etc related to the whole life-cycle of their products. Further action will then be taken on the basis of criteria set by the EU. At this point we have to underline that the Environmental and Consumer NGOs should be involved in the consultation process as early as possible, to ensure that the environmental objectives of IPP are met.

Without product files any discussion about IPP remains vague. Product files mark the starting point for environmental care, enable priority setting for measures, enable eco-design and the setting of long-term targets. At the same time the impact of making product files on the awareness of the environmental impact for companies themselves, should not be underestimated. The product files should be made available to the public by respecting at the same time the issue of confidentiality.

We share the widespread opinion that life-cycle analysis still raises methodological controversy.³ The discussion however becomes circular and strategic, if policy action is rejected with the argument that a consensual LCA method is missing. We have to base our actions on the evidence we have or can get within a reasonable delay and not wait endlessly for the facts being fully and widely agreed upon before action is taken.

The EEB suggests to introduce a legal requirement for producers to present data sheets on the environmental impacts of each product before its placing on the market.

5.5 Guidelines for Product Design

Question: 4.3.2.: How can environmental aspects become a key feature of product design?

The EEB does not object to industry developing design for the environment criteria by using the European Standardisation bodies. However, there is no need to give such voluntary environmental product management systems a sense of public credibility as a harmonisation measure, containing the freedom of member states to apply effective policy instruments to green product performance. Management systems for environmental product design cannot be considered a harmonisation measure. Management Systems by their very nature, may ensure dynamic learning processes about environmental aspects in products, but they do not ensure a high level of environmental protection. The balancing decision between environmental, functional and economic objectives is at the full discretion of the producer. So there is no harmonisation element in it.

Guidelines for design and product related environmental management systems are no harmonisation measures. They do not ensure a high level of environmental protection as required by Art. 95 of the treaty. They should not be considered to be more, than what they are: a flexible environmental policy instrument.

³ See: Wollny, Volrad: Assessment of Plastics Recovery Options, EEB Publication 8/2000

5.6 New Approach

Question 4.3.3: How can IPP contribute to greening the standardisation process and to use the potential for New Approach legislation optimally?

“Standards are the result of a consensus-driven process which is open to all interested parties”. Unfortunately this claim is not met in practice. Standards are developed by those who can afford to pay their participation in the process. Environmental organisations cannot. As a result many standards are weak with regard to environmental aspects throughout the life-cycle of the products. The EEB’s assessments of some standards have given evidence that these standards are bad for the environment and abused as a lobby tool against demanding environmental protection or undermining politically set environmental objectives. Non-conformity with the directive has been found by the Commission in the pilot project of applying the new approach in environmental policy: the packaging directive. We are not confident that other standards will turn out to be better. Industry is using standards to fight any policy that is selective and aiming at a distinction between environmentally friendly and less environmentally friendly products. Non-selectivity however will not drive ecological product innovation. The lowest common denominator approach inherent in the ISO understanding of “consensus” is preventing any benchmarking of standards in the view of best practice.

The “New Approach” as it stands cannot deliver unless precise requirements are laid down in the respective directives that represent the baseline for the mandate. And even if environmental NGOs will participate in the process, they can be marginalised because there is no mechanism in the New Approach that provides the Commission with a checking right and the right to order changes to make the standard comply with the demands of the Directive. The only right of the Commission consists of not publishing the reference to the standard in the Official Journal. As the packaging standards show, the Commission is sometimes willing not to publish standards. This may have the effect, that standardisation organisations take dissenting views more seriously than in the past. A take it or leave it decision at the end of a multi-annual process however may delay the effective implementation of directives.

The Commission tends to draw a one-sided lesson from the packing standardisation disaster. The Commission assumes that the main problem is to be seen in the quality of the essential requirements and the mandates – less in the standardisation process as such. We believe, there is a mixture of both: policy failure and deficits in the internal CEN procedures.

As shown on other occasions, the failure of the packaging standards is also due to internal procedures, which allowed to bypass environmentalists concerns, where they were occasionally raised.

Non-mandated standardisation will hardly ever take the environment into consideration because Technical Committees are absolutely autonomous and have no reason whatsoever to respect it unless there was a legal EU-requirement to include life-cycle thinking into their work. Furthermore producers have to be aware that they have to pay for the environmental damage their products cause, i.e. they should be held liable for it beyond the scope of the product liability directive.

Because of the absence of any such requirement and a very restricted mandate the Environmental Helpdesk of CEN can unfortunately not guarantee high environmental performance of CEN standards. The same holds true for the CEN Handbook articles. Both are based on voluntary action that has to be agreed on in consensus hardly to be attained where economical interests are at stake.

The poorest transparency is found in the process of adopting “Workshop Agreements”. Their main characteristic is the exclusion of those interested parties that may not see a benefit in such an agreement. They cannot find any public acknowledgement and must be considered as what they are: the consensus between a few club members.

The conditions of standardisation to be used in ecological product policy are:

- Legislation to make life-cycle thinking, environmental liability, the integration of environmental aspects and benchmarking with the state of art, a requirement for products placed on the market and thus for standardisation.
- Amendment of the New Approach in that checking of standards by the EU Commission and subsequent obligation of standardisation bodies to adapt the standards for compliance is made a requirement.
- Active and direct participation of environmental NGOs in standardisation at all levels and its funding by Member States and the Commission.
- Making the whole standardisation process transparent, publicly accountable and providing fair chances to minority opinions to influence the process.

The EEB calls for a fundamental reform of legislation to make standardisation compatible with the environmental policy integration requirements of the Amsterdam Treaty. The new approach is not an appropriate environmental policy tool which can ensure a high level of environmental protection and the internal market at the same time.

6. Product Panels

4.3.4: Are product panels suitable solutions and how can they be organised in practice?

The EEB welcomes that the Commission intends to start a limited number of Product Panels. However the Commission fails to suggest any rules for the functioning of Product Panels. An ad-hoc approach towards product panels preparing decisions which potentially have effects for the EU as a whole is not acceptable to the EEB.

The EEB insists on clear-cut Commission guidance for product panels, as regards selection of products, goals, participation and internal procedures.

The EEB suggests the following criteria for the identification of products for the panels.

- Environmental significance
- Scope for improvement also in a medium-term perspective
- Issue of wider public concern
- Substitutes available or in development
- Potential for multi-stakeholder consensus

The Commission should commit itself to giving guidance on the following aspects of the product panels:

- Environmental objectives and targets: the main problems of the product group should be identified and targets for reduction of product pollution be

set, which are as precise as possible; where quantitative targets are not feasible, ambitious qualitative targets or principles (e.g. substitution principle) should be set.

- The Commission should invest into independent expertise and research about best practice, potential for improvement, costs of change and potential measures.
- The Commission should identify the front-runners in the sector and the best performing products. It should invite them as key players in the product panels.
- The number of participants in product panels should be limited, the structure of the panels should not be too complicated.
- Environmental and Consumer Organisations should be enabled to participate at all levels of the planned panels. This might imply financial arrangements for travel and expertise.

The EEB would like to emphasise that the Auto-Oil model (based upon multi-stakeholder participation, sound science and economic analysis) is not to be considered as an appropriate model. We consider the principles of “multi-stakeholder participation, sound science and cost-effectiveness as too imprecise and too narrow.

Multi-stakeholder Participation should not left over to a “market place approach” (e.g. recycling forum), where everyone can participate, provided he has sufficient resources to send experts. Governance by big business is not in line with democratic governance envisaged by the Commission for its White Paper on Governance. The weakly resources player, including SMEs, Consumers, Environmentalists should have a fair chance in influencing the panels. Otherwise all those groups will look for more promising channels to actively pursue their concerns.

Sound Science should not be restricted to evidence based upon standardised risk assessments. The debate about risk has widened: concepts like precaution, public concern, substitution and reversed burden of proof must stay accepted principles in the context of IPP. They reflect the uncertainty and ignorance on cause effect relationship which are inherent in the ecological risk debate. The concept of “sound science” only allows action on the basis of firm proof. Such a narrow concept is no more up-to date.

The EEB does not oppose to cost-effectiveness considerations, provided the scope of the debate is properly designed, considering all types of options. The EEB however considers cost-benefit analysis in product policy not as an appropriate decision-preparation tool. The degree of uncertainty is too high and the methods of monetarisation for certain impacts too little advanced, in order to be able to precisely define the “optimal level” of protection on the basis of CBA.⁴ Sound economic assessment is transparent on methodological assumptions and uncertainties, comprehensive as regards damages covered and least cost solutions considered and it adopts an integrated multi-pollutant approach.

The Commission has adopted other forms of stakeholder consultation (e.g. the air quality steering group) which should be preferred over the auto-oil model, which is business dominated.

⁴ Economic Valuation methods of environmental measures, Seminar Reader, EEB 1999

7. Other supportive Instruments

EMAS: We suggest a guidance note and dissemination of good practice on how EMAS can be used for greening products needed.

- Research: DG RES projects should deliver knowledge of innovation jumps related to products and their environmental effects (e.g. fuel cell)
- Methodology development for applied research
- Systematic Transfer, Dissemination and narrow co-operation between IPP developments and needs and Research Framework Programme needed.

DG RES projects cannot substitute but only complement applied research on specific issues in DG ENV: scientists networks and pre-competitive research causes inherent transfer problems for application in practice. Synchronisation of activities is often difficult. DG RES are 2-4 year processes – IPP needs knowledge within several months. Therefore DG ENV should prepare for an own budget for applied research.

Funding: In its present phase IPP risks to be an underfunded exercise. If the Commission seriously wants to drive innovation it should be able to offer some immediate benefits. Some national product panels have important budgets at their disposal. The Life Programme can only contribute a minor share of funding needs. Funding is needed to support pilot projects and programmes, publicity, research, balanced multi-stakeholder participation, a European network of ecotesting organisations, sufficient co-ordination at EU level etc. If the Commission is unwilling to use its legislative powers and unable to mobilise funding, IPP will not make much difference.

The EEB therefore suggests to create an IPP support fund in the range of 100 Million Euro annually in order to be able to make a difference.

8. Conclusions: EEB Key demands

Based upon this position paper the EEB summarises here its key responses to the Green Paper consultation:

On the General Approach:

1. The EEB suggests a policy approach, aiming at an increase of market shares for innovative products. Third party certified ecolabels play a key role in setting criteria for the leading market segment. Furthermore a policy to formulate mandatory minimum performance conditions for the worst performing products is needed. The middle field than will move, pulled by new market opportunities and pushed by the threat of legislation.
2. The EEB suggests to start IPP with a fair assessment of what has been achieved and which attempts have failed already.

3. The EEB calls for the Commission to make full use of its institutional powers and to actively drive the process and not restrict itself to a facilitator role.
4. The Commission should refocus the debate on IPP as soon as possible from abstract philosophy to specific political projects.
5. EEB calls for a fundamental reform of legislation to make it compatible with the environmental policy integration requirements of the Amsterdam Treaty. The new approach is not an appropriate environmental policy instrument which ensures a high level of environmental protection and the internal market at the same time.
6. The EEB insists that setting the level of consumption is a priority for the IPP agenda.

On multi-stakeholder and consensual policy approach:

7. The EEB believes that the Commission should not wait another time, to see, if a consensual approach works or fails, before the Commission decides to propose legislation. Consultation, negotiation and proposing legislation should be parallel and not sequential actions.
8. EEB disagrees with the Commission, that stakeholder consultation should only be structured on a case by case basis. Some general principles on how to organise multi-stakeholder processes should be defined. EEB wants a structured dialogue!
9. Dialogue-oriented approaches require the Commission playing an active role, work-intensive consultation and moderation processes, more investments to solve controversial issues etc. This is not necessarily compatible with a lean administration. Furthermore the Commission should clearly indicate, how it wants to privilege innovating industries in the process, whether it wants to achieve consensus with industry as a whole or only parts of industry and how the other Community institutions are to be involved in the processes.

On the instruments:

10. Start an initiative for a reduced VAT Type I ecolabeled products immediately and to prepare other economic instruments.
11. Extending Environmental Liability principles to products.
12. Identify additional waste streams, where producer responsibility should be applied.
13. Continue further development and promote Type I Ecolabels.
14. EEB does not consider Type III labels as a useful consumer information tool, however it may contribute to better comparative transparency on the performance of products if performance indicators are standardised and focussed.

15. Establish a European network of national Eco-test organisations and magazines, providing and disseminating comparative quality testing.
16. The EEB supports the promotion of green public procurement. We however insist that the current revision of the EU public procurement legislation becomes fully consistent with the IPP principles of a life-cycle approach with respect to the environmental impact.
17. Guidelines for design and product related environmental management systems are no harmonisation measures. They do not ensure a high level of environmental protection as required by Art. 95 of the treaty. They should not be considered to be more, than what they are: a flexible environmental policy instrument.
18. Create an IPP support fund in the range of 100 Million Euro annually in order to be able to make a difference.