

**Comments of PU Europe<sup>1</sup>**  
on the  
**Draft Commission Decision on  
establishing the ecological criteria for the award of the Community  
Eco-label for Buildings (September 2009)**

Referring to the presentation of the above document to the Eco-label advisory board, PU Europe wishes to make the following comments:

**General comments:**

- The above document is NOT supported by major parts of the ad hoc working group. On the contrary, the methodology has been heavily criticized by the waste majority of group members and many of the eco-label requirements have been rejected.
- The European Construction Forum, bringing together the most relevant construction supply chain members (architects, engineers, contractors, material suppliers, trade unions), does not support the development of an eco-label for buildings. It would have been appropriate to first consult with the industry before launching its development. The proposers should have taken into account that the construction sector is one of the most regulated business sectors of Europe. Buildings and construction products / materials are already covered by specific legislation: the Energy Performance of Buildings Directive (under recast), the Construction Products Directive (CPD) to be replaced by the Construction Products Regulation (CPR), products standards, the future European standards on sustainable construction (CEN TC 350) and very detailed national / regional building regulations.
- The non-respect of the legal requirements as stipulated in the Eco-label regulation, the lack of support from the construction stakeholders and the very poor quality of the draft eco-label criteria lead PU Europe to suggest a complete suspension of the development process. The whole approach must be reviewed and the requirements should be based on the EPBD, TC350 (or existing ISO equivalent) and TC351.

**Procedural comments:**

PU Europe strongly believes that the drafting process for the eco-label criteria did not respect the requirements of Regulation No 1980/2000. This is demonstrated by the following examples:

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<sup>1</sup> PU Europe is the European association representing the rigid polyurethane insulation industry (PUR/PIR). Rigid polyurethane foam is a premium insulation material used in a wide variety of applications in buildings, district heating, cooling and refrigeration, and industrial systems.

**Article 3.2 a**

In evaluating the comparative improvements, consideration shall be given to the net environmental balance between the environmental benefits and burdens, including health and safety aspects, associated with the adaptations throughout the various life stages of the products being considered. The evaluation shall also take into account the possible environmental benefits related to the utilisation of the products considered;

**PU Europe comment:**

At no stage of the drafting process has there been a discussion on the net environmental balance. It has never been tried to assess or quantify environmental benefits and burdens. Hence, a comparative improvement analysis did not take place.

**Article 3.2 b**

The key environmental aspects shall be determined by identifying the categories of environmental impact where the product under examination provides the most significant contribution from a life cycle perspective, and among such aspects the ones for which a significant potential for improvement exists;

**PU Europe comment:**

It has not been tried to identify the environmental aspects with the most significant contribution from a life cycle perspective. Rather, a simple quantitative analysis was conducted to determine how many times a certain indicator was mentioned in certain existing schemes. These schemes included private or public ecological labels, sustainability labels; standards and EU projects.

**Article 6.3**

On the basis of the mandate the EUEB shall draft the eco-label criteria in respect of the product group and the assessment and verification requirements related to those criteria, as outlined in Article 4 and Annex IV, by taking into account the results of feasibility and market studies, life cycle considerations and the improvement analysis referred to in Annex II.

**PU Europe comment:**

The ad-hoc working group has neither looked at life cycle considerations nor conducted an improvement analysis.

**Article 7.1**

Applications for the eco-label may be submitted by manufacturers, importers, service providers, traders and retailers. The two last-named may submit applications only in respect of products placed on the market under their own brand names.

**PU Europe comment:**

The group has not found consensus as to who should apply for the Ecolabel and who should take care of its annual renewal. Due to the fragmentation of the construction supply chain, different levels of warranties and the involvement of different players in new build and renovation (architects / engineers not always involved) there may be no one-size-fits-all solution. Furthermore, the construction supply chain (material suppliers, architects, contractors etc.) ceases to have access to or keep records of the building once it is sold. It is questionable whether any member of the supply chain or use phase has sufficient knowledge to understand and demonstrate compliance of the complete set of indicators.

Hence, the question of transferring the eco-label to the owner needs to be addressed if the use-phase (maintenance) is to be covered as well.

Furthermore, buildings are usually not marketed under a certain brand name.

**Article 9.1**

The competent body shall conclude a contract with the applicant for an eco-label, covering the terms of use of the label. These shall include provisions for withdrawing the authorisation to use the label. The authorisation shall be reconsidered and the contract revised or terminated, as appropriate, following any revision of the eco-label criteria applicable to a given product. This contract shall state that participation in the Scheme shall be without prejudice to environmental or other regulatory requirements of Community or national law applicable to the various life stages of goods, and where appropriate to a service.

**PU Europe comment:**

Again, who is the applicant and who is in charge of renewal? Who will monitor that the buildings is run and maintained according to the eco-label criteria over a period of 25 years? Do Competent Bodies have this capacity?

**Article 12**

Every application for the award of an eco-label shall be subject to payment of a fee relating to the costs of processing the application. The use of the eco-label shall entail payment of an annual fee by the applicant. The level of application and annual fees shall be established in accordance with Annex V and under the procedure laid down in Article 17.

**PU Europe comment:**

Who will pay this fee? Who will pay the annual fee once the building is sold to an owner? What happens if ownership changes?

**ANNEX II**

The process of identifying and selecting the key environmental aspects as well as setting the eco-label criteria will include the following steps:

- feasibility and market study,
- life cycle considerations (Key environmental aspects for which criteria will need to be developed will be defined through the use of life cycle considerations, and will be performed in accordance with internationally recognised methods and standards. The principles laid down in EN ISO 14040 and ISO 14024 will be duly taken into account, where appropriate.)
- improvement analysis,
- proposal of the criteria.

**PU Europe comment:**

The ad-hoc WG never looked at the life cycle of the key environmental aspects. Internationally recognised methods and standards were not applied.

**ANNEX IV**

For the development of eco-label criteria as well as the assessment and verification requirements related to those criteria, the following principles will apply:

**1. Interested parties involvement**

(a) A specific ad hoc working group involving the interested parties referred to in Article 15 and the competent bodies referred to in Article 14 will be established within the EUEB for the development of eco-label criteria for each product group.

(b) Interested parties will be involved in the process of identifying and selecting key environmental aspects, and especially in the following phases:

- (i) feasibility and market study;
- (ii) life cycle considerations;
- (iii) improvement analysis;
- (iv) proposal of the criteria.

All reasonable efforts will be made to achieve a consensus throughout the process, while aiming at high levels of environmental protection.  
A working paper summarising the main findings of each phase will be issued and distributed in good time to the participants before the meeting of the ad hoc working group.

PU Europe comment:

The ad-hoc WG was indeed set up and participation for stakeholders was possible from the beginning. However, the WG did NOT develop the eco-label criteria. The WG members could merely present their comments, but no discussion took place, it was not tried to reach consensus and no recommendation or decision was taken by the WG (see meeting minutes). In reality, the eco-label criteria were developed by a parallel group to which the ad-hoc WG members had no access. In spite of fundamental criticism expressed at the ad-hoc WG meetings, the draft eco-label criteria only changed marginally.

**Specific comment:**

**Requirements 14 (new build) / 44 (existing buildings): Halogen-free materials**

The lacking scientific basis and the lack of consensus finding efforts is striking in the case of the proposed generalised ban of halogenated materials. This ban covers also substances that do not require any labelling as they are not considered dangerous or harmful. It would be illogical to refer to the precautionary principle in this case, as detailed risk assessments are available.

PU Europe firmly believes that the (supposed) negative impacts must be compared with the potential benefits. If the benefits largely outweigh the risks, the substance should not be simply banned. Furthermore, the presence of a substance in a product must be assessed at the building level, as this is the product in consideration by this eco-label. Hence, a construction product may well contain a certain percentage of a specific substance but, at the building level, the content may be negligible i.e. below 0.1 % (REACH cut-off criteria).

In any case, the eco-label should underpin the proposed bans and restrictions with scientific evidence taking due account of the absence or presence of hazards to the health or environment in the use phase of the product.

**Example:**

TCPP is a halogenated (but not brominated) flame retardant used in a number of building products. The EU risk assessment<sup>2</sup> concluded that there is no risk for any of the downstream users (insulation material manufacturers, builders, users). Taking this into account, the Member State Competent Authority meeting decided in May 2009 that no classification or labeling is required for TCPP in the framework of REACH Annex XV (Classification & Labelling). The eco-label cannot be more ambitious than “no risk”.

TCPP is practically not emitted<sup>3</sup> during the lifetime of the construction product and will be destroyed at the end of the product life through energy recovery.

On the other hand, in its use phase, the flame retardant will help protect the health of users. It will also allow the use of the most efficient insulation materials commonly available on the market, which will significantly improve the overall energy and material balance of the building.

Brussels, 8<sup>th</sup> October 2009

<sup>2</sup> European Union Risk Assessment Report tris(2-chloro-1-methylethyl) phosphate (TCPP) - CAS No: 13674-84-5, EINECS No: 237-158-7

<sup>3</sup> Emissionen von Flammschutzmitteln aus Bauprodukten und Konsumgütern, Bundesanstalt für Materialforschung und –prüfung (BAM), Forschungsbericht 299 65 321, UBA-FB 000475