

# Voluntary instruments in EU environmental policy

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WORK IN PROGRESS

## 1. Introduction

Since the early 1990s there has been a considerable shift in European environmental policies from traditional command and control legislation to what have been coined “new environmental policy instruments”. This shift took place both at the EU level and within Member States, thus making environmental policy-making one of the best test cases of governance (as opposed to government, i.e. traditional legislation). While there is considerable literature on how this change occurred in the Member States<sup>1</sup>, relatively little attention has been paid to the EU level. The purposes of the governance shift in EU environmental policy making have been clarified<sup>2</sup>, but there is no comprehensive account of the current situation in the use of new policy instruments at the Community level and of their implications.

The purpose of this paper is to look closely at three of the voluntary policy instruments used by the EU, namely the EU Eco-labeling scheme, the European Management and Audit Scheme (EMAS) and Voluntary Environmental Agreements (VEAs). These three instruments are the main focus of this paper for several reasons. On the one hand, they are a wonderful example of multilevel governance: designed at the EU level, implemented at the national/regional level, strong stakeholder involvement at all levels, strong interplay public-private both at the design and at the implementation stage. On the other hand, they are currently being reframed within new, encompassing policy frameworks such as the Integrated Product Policy (IPP), the Environmental Technologies Action Plan (ETAP) or the directive on the Eco-design of Energy-Using Products (EuP). IPP for instance relies exclusively on voluntary instruments such as those mentioned above for its implementation.

After a brief presentation of the reasons behind the switch to new environmental instruments in EU policy-making, the paper will continue by analyzing the three instruments mentioned above taking into account their multilevel dimension and their new reframing. This assessment will be based on existing official documents and academic literature, as well as on a series of interviews carried out between March and June 2005 with public authorities, stakeholders and NGOs (all both at the EU and at the Belgian national level) involved in the day-to-day implementation or follow-up of these tools. The study will show that the success of these instruments highly depends on the attitude of public authorities at the national or regional level. Therefore, the reliance of EU-level policy frameworks exclusively on such instruments as implementing tools is condemned to failure, given the completely different approaches that national public authorities have towards this kind of tools.

## 2. The EU Eco-labeling scheme

In the Commission’s own words, the EU Eco-label is “a voluntary scheme designed to encourage businesses to market products and services that are kinder to the environment and for European consumers - including public and private purchasers - to easily identify them”<sup>3</sup>.

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<sup>1</sup> See for instance the work of Jordan, Wurzel, Zito and Bruckner on the transfer of NEPIs

<sup>2</sup> Some of the reasons quoted in the literature are: cost-effectiveness, economic competitiveness, subsidiarity, stakeholder involvement, avoiding cumbersome legislative processes, etc.

<sup>3</sup> [http://europa.eu.int/comm/environment/ecolabel/index\\_en.htm](http://europa.eu.int/comm/environment/ecolabel/index_en.htm), accessed Oct. 5, 2005

The EU Eco-Label is based on Regulation 880/92 (revised in 2000, Regulation 1980/2000) and is part of the broader strategy aimed at promoting sustainable production and consumption. It is a market-based instrument, meant to stimulate both the supply and the demand of greener products. In practice, the process and the division of labor between the EU and national entities can be summarized as follows: the European Union Eco-labeling Board (EUEB) develops ecological criteria for product groups in close collaboration with the Commission. The EUEB is composed of the Competent Bodies (national authorities entitled to award the EU Eco-label to the products that meet the criteria) and the Consultation Forum (representatives of consumer NGOs, environmental NGOs, trade unions, industry, SMEs and commerce). The criteria developed by the EUEB are submitted to the Regulatory Committee (made up of governmental experts of the Member States) and then endorsed by the Commission. The award of the Eco-Label is made by the Competent Body in each Member State. With the revision of the scheme in 2000 three management groups - the Policy Management Group, the Co-operation and Coordination Group and the Marketing Management Group - were created to assist the Commission and the Member States in the elaboration of different aspects of the Scheme.

Public authorities are present, within this framework, only in the Competent Bodies. Nevertheless, the Competent Bodies carry out the most important activities in the Eco-label scheme: leading the ad hoc working group created to evaluate the introduction of new product groups in the Eco-Label scheme, leading the preparatory work to develop or revise criteria, receiving applications and awarding the EU eco-label. In addition, national experts sit on the Regulatory Committee, but their position as representatives of Member States or independent experts is hard to assess. The Commission has the task to adopt criteria (after they have been endorsed by the Regulatory Committee) and to ensure the transparency of the whole process by inviting international observers together with the EUEB. It can also select specific groups of products for the scheme (the EUEB enjoys the same right) and drafts the mandates for developing or revising criteria. From a purely administrative perspective, the Commission finances the lead Competent Body in charge of the preparatory work or the preparation of criteria. The stakeholders have several roles: on the one hand they are members of the Consultative Forum which, together with the Competent Bodies, make up the EUEB. On the other hand, they can be part of the ad hoc working groups formed either for preparatory work or to devise/revise criteria. In addition, they are consulted at national level by the Competent Bodies.

Nevertheless, despite the seemingly multiple venues for stakeholder participation in the scheme, several problems arise when assessing the degree of actual stakeholder involvement. On the one hand, as a voluntary scheme, the EU Eco-label never had strong support from economic operators (producers, distributors, services and importers)<sup>4</sup>. On the other hand, environmentalists are skeptical about it since eco-labeling appears to provide a new green legitimacy for consumption, and underplays the responsibility stated in Agenda 21 to reduce consumption levels<sup>5</sup>. In addition, the multiple opportunities for stakeholder involvement in the scheme do not mean that environmental and consumer protection interests are those which prevail. Environmental NGOs have pointed out to the

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<sup>4</sup> Eiderström, E. – “Ecolabels in EU Environmental Policy” in Golub, J. (ed.), “New Instruments for Environmental Policy in the EU”, Routledge, London, 1998

<sup>5</sup> idem

heavy industry lobby to water down criteria<sup>6</sup> and to the fact that several industrial sectors systematically boycott the scheme<sup>7</sup>.

A study conducted in 1998, by IEFÉ and ICEM-CEEM<sup>8</sup>, identified a vicious circle that acts as the main barrier hindering the adoption of the EU Eco-label by companies: companies either do not know about the EU Eco-label or have not heard of success stories: consumers do not know the label and therefore do not ask for it, retailers hardly ever offer eco-labelled products because there are few of them, and because retailers do not promote such products the consumer does not know about them. Indeed, different studies carried out in several Member States also underline the poor level of consumer awareness of the label. Thus, for instance, the EU Eco-label is known by 1% of the consumers in Germany, 0,4% in Italy and 1,2% in Spain<sup>9</sup>. The differentiated consumer response to the label leads to different marketing strategies: a Swedish paint producer for instance sells an Eco-labeled product in Sweden (where consumers are more aware of the label) and the very same product without the label in Belgium<sup>10</sup>.

Two additional barriers can also be identified: the financial and administrative burden on one hand and the limited added value on the other. The costs for the label in Belgium for instance are: 400 Euro (standard fee, a 25% discount is applicable to SMEs) application fee plus an annual fee of 0,15% of the product's annual sales in the EU<sup>11</sup>. Costs for tests and verification are not included and those seem to be the biggest problem for SMEs<sup>12</sup>. The relatively high total costs have been clearly identified as a problem by industry during the Expert Workshops preceding the adoption of the Commission Communication on IPP<sup>13</sup>. The EU Eco-label, once obtained, can be used until the end of the validity of the criteria for the product group in question; normally criteria are valid for 3-5 years, which means that a new application is needed when the criteria are changed. Some industrial players complain not only about the application process being expensive, but also about the ethics behind having to pay for being environmentally-friendly while non-applicants do not have to pay anything. Moreover, the fee money paid for the Eco-label in Belgium goes directly to the Treasury and is not used for marketing activities for the Scheme. This lack of transparency and the apparent loss of the tax is definitely not an incentive for producers to apply.

In addition to the financial costs, the administrative process of applying for the label seems to be cumbersome especially for SMEs. There seem to be five stages<sup>14</sup> a

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<sup>6</sup> idem

<sup>7</sup> European Environmental Bureau – *EEB Evaluation of the European Eco-label Criteria and Scheme*. « *What we wanted – what we got ...* », July 2004, on [http://www.eeb.org/activities/product\\_policy/EEB-Ecolabel-evaluation-What-we-wanted-what-we-got-July2004.pdf](http://www.eeb.org/activities/product_policy/EEB-Ecolabel-evaluation-What-we-wanted-what-we-got-July2004.pdf)

<sup>8</sup> IEFÉ & ICEM-CEEM – *Project for the Promotion and Diffusion of the EU Eco-label in Italy and the Benelux. Final Report Submitted to the European Commission DG XI.E.4*, February 1, 1998, on [http://europa.eu.int/comm/environment/ecolabel/pdf/market\\_study/bocconi.pdf](http://europa.eu.int/comm/environment/ecolabel/pdf/market_study/bocconi.pdf)

<sup>9</sup> Rubik&Frankl quoted in EVER Study, p. 20

<sup>10</sup> interview Belgian Competent Body, April 19, 2005

<sup>11</sup> Minimum 500 Euro and maximum 25,000 Euro per product group and per applicant

<sup>12</sup> Vermeire, I., Le Roy, D., Aenderkerck, V., Vanlangendonck, C. – *Development and Implementation of Marketing Actions for the European Eco-Label in Belgium*, February 2003, p. 15

<sup>13</sup> Summary of Discussions at the 7th Integrated Product Policy Workshop. Economic Instruments. Brussels, 19<sup>th</sup> June 2001, p. 4

<sup>14</sup> idem, p. 8

company has to go through to apply: first, they have to be interested. Second, they have to conduct a feasibility study in order to assess their capacity of meeting the criteria. Third, they have to undertake a cost-benefit analysis and make the decision. Fourth, they submit an application and finally have to set up a marketing strategy for the Eco-labeled products. A study conducted by BECO<sup>15</sup> identified bottlenecks in each of the five stages, ranging from lack of information in the first phase to the difficulties of collecting data in the second (potential applicants often only execute the last steps of the production cycle and cannot influence the environmental characteristics of their suppliers' products) and to the questionable validity of laboratory tests in the fourth.

This relatively complex and expensive procedure does not seem to have an added value so that companies are eager to engage in it. Most companies already invest considerable means in environmental protection just by having to live up with the environmental legislation in place. Why would they invest in a label for which there is no market pressure at the moment? In fact, a recent study shows that only 2% of Belgian consumers know, interpret correctly and have confidence in the EU Flower<sup>16</sup>. Only very few companies are willing to be pro-active and address that niche market of environmentally aware consumers.

Figures seem to confirm the fact that the EU Eco-Label does not have many supporters in the market and is not very successful. Thus, criteria have been drafted for some 23 product groups (out of which 5 are under revision) and a further 5 product groups are under development<sup>17</sup>; 224 licenses for the use of the logo have been awarded throughout the EU so far<sup>18</sup>. These figures do not account for the differences among countries and product groups, which are highly imbalanced. Thus, only a few of the product groups account for most of the products labeled. In 2000, when only 15 product groups were developed, four of them (paints and varnishes, textile products, footwear, tissue paper) accounted for 85% of all products labeled<sup>19</sup>. At the same time, 75% of the products labeled were concentrated in five countries<sup>20</sup>. In addition, 50% of the product categories currently show applicant levels of between 0 and 3<sup>21</sup>.

Nevertheless, the eco-label does not seem to be an unsuccessful scheme per se. At the national level it seems to be working quite well. In Germany for instance, about 600 companies and 3,800 products use the Blue Angel environmental label. And about half of the consumers in West Germany and almost a third in East Germany take it into account when they go shopping<sup>22</sup>. The scheme also seems to be working at smaller regional levels

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<sup>15</sup> Quoted in Vermeire et. al., *op. cit.*, p. 10

<sup>16</sup> Rousseau, C. et al. – *Label écologique européen: quels impacts sur les choix de consommation?*, Bruxelles, CRIOC, 2004, p. 15

<sup>17</sup> [http://europa.eu.int/comm/environment/ecolabel/product/index\\_en.htm](http://europa.eu.int/comm/environment/ecolabel/product/index_en.htm)

<sup>18</sup> [http://europa.eu.int/comm/environment/ecolabel/whats\\_eco/greenstore\\_en.htm](http://europa.eu.int/comm/environment/ecolabel/whats_eco/greenstore_en.htm)

<sup>19</sup> Taylor Nelson Sofres Consulting – *Investigation of the market impacts and penetration of the European Eco-label over the years 1992-2000 and 2001-2004. Final Report*. December 2001, p. 4, on [http://europa.eu.int/comm/environment/ecolabel/pdf/market\\_study/sofresoutlookphase1\\_1201.pdf](http://europa.eu.int/comm/environment/ecolabel/pdf/market_study/sofresoutlookphase1_1201.pdf)

<sup>20</sup> idem

<sup>21</sup> EVER Study, Interim Report, p. 19, on

[http://europa.eu.int/comm/environment/ecolabel/pdf/news/ever\\_interimreport.pdf](http://europa.eu.int/comm/environment/ecolabel/pdf/news/ever_interimreport.pdf)

<sup>22</sup> [http://www.blauer-engel.de/englisch/navigation/body\\_blauer\\_engel.htm](http://www.blauer-engel.de/englisch/navigation/body_blauer_engel.htm)

as well. For instance, there are 680 licenses for the Nordic Swan in Sweden alone today, covering 60 product groups<sup>23</sup>.

Another important element that needs to be taken into account when assessing the success, or lack thereof, of the EU Eco-labelling scheme is the fact that its success cannot be evaluated by numbers alone. Many people involved in the scheme both at the national and at EU level point to the indirect but important effects of the Label. Thus, for instance, a study<sup>24</sup> carried out by AEAT in 2004 at the request of DG Environment identified the following indirect uses of the eco-label criteria:

- by another eco-label scheme
- in public procurement calls for tender
- in private procurement calls for tender
- by companies as a benchmark for their own products or as a target to improve their environmental performance
- to generate Type III labels (environmental product declarations) or recommendations on how to make green claims (Type II)
- to generate minimum environmental requirements applicable to all products of a product category on the market
- in “New Approach” as a basis for establishing whether companies have complied with “essential requirements”
- to raise stakeholder awareness of the environmental impact of products
- as a basis for establishing fiscal measures to promote green products

In addition to taking the indirect effects into account, a country-by-country analysis of the implementation of the EU Eco-labeling scheme would be needed for clearly assessing its success. Given that the national Competent Bodies are in charge of promoting the scheme and dealing with applications at the national level, the resources they have at their disposal, as well as the national legislative framework in which they work, are of extreme importance. Thus, for instance, there are only two people working on the scheme in Belgium who are not only supposed to attend the meetings of the EUEB and of all the technical committees, but also to be pro-active and publicize the scheme nationally. As a consequence, they can only reply to requests and are not able to follow-up actively on producers who showed interest in the scheme. Only 3 Belgian companies have obtained the EU Eco-label, one of which applied at the request of its Danish business partner<sup>25</sup>.

The EU scheme is scheduled for revision in 2006. There is no official position yet concerning the points that will be revised, as an assessment study is currently being developed by Bocconi University. Nevertheless, there are a few concepts that will

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<sup>23</sup> <http://www.svanen.nu/Eng/products/>

<sup>24</sup> AEAT in Confidence – *The Direct and Indirect Benefits of the European Ecolabel – Final Report*, November 2004, on [http://europa.eu.int/comm/environment/ecolabel/pdf/market\\_study/benefitsfinalreport\\_1104.pdf](http://europa.eu.int/comm/environment/ecolabel/pdf/market_study/benefitsfinalreport_1104.pdf)

<sup>25</sup> Interview Belgian Competent Body, April 19, 2005

definitely be discussed within the revision process and that point to current problems in the scheme. They mostly concern: a wider role of Competent Bodies and a possible merger of EMAS and Eco-label national Competent Bodies<sup>26</sup>, legal personality and enhanced role for the EUEB<sup>27</sup>, the creation of a graded eco-label<sup>28</sup>, mutual recognition of labels<sup>29</sup>, and a thorough revision of the administrative set-up. An interim report on the revision of the Scheme (jointly with EMAS) has been recently published. It summarizes part of the relevant literature and the preliminary conclusions of a series of interviews, but does not offer additional information as to the changes to be made to the scheme.

Despite its questionable success, the EU Eco-label scheme is the only concrete EU Product Policy, given the current status of the Integrated Product Policy<sup>30</sup>. Despite the Commission Communication on IPP dating back to 2003 and the beginning of the whole IPP process at the EU level tracing to the mid-90s, not much has been going on lately. Nevertheless, the EU Eco-label community seems enthusiastic about IPP, as it offers new opportunities for the Scheme, which has operated with little or no support from other policy measures so far<sup>31</sup>. Thus, within the instrument-mix approach of IPP, the EU Eco-labeling scheme may be reinforced through the interaction with other instruments and policy approaches (using for instance the Eco-label for public procurement). In order to better assess the practical working of these synergies, members of the EUEB declared their intention to be closely involved in the IPP pilot projects<sup>32</sup>. This seems to be happening in practice as for instance, the UK representative on the EUEB, who chaired the Policy Management Group in 2003 and 2004 is currently involved in the mobile phone pilot project as well as chairing the IPP working group on product information.

The emerging IPP strategy inspired a series of discussions within the EUEB Policy Management Group as to how the eco-label could be developed in the new

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<sup>26</sup> This would seem to make administrative charges easier and to encourage companies to apply for both systems. Nevertheless, in practice it would be extremely hard to achieve, given the different legal status of the Bodies in the different Member States and the different nature of the two instruments.

<sup>27</sup> Currently, the process of criteria development takes on average two years, out of which at least six months are lost because of the internal decision-making mechanisms of the Commission. Criteria, once agreed on, need to be formalized through a Commission decision – an official document that has to go through all the stages of adoption within the institution (inter-service consultation, translations, etc). If the EUEB would be entrusted, as a body with legal personality, with the formal adoption of criteria, the whole process would be reduced.

<sup>28</sup> In order to satisfy producers who argue that Eco-label criteria are too strict and those who argue that they are too loose, the idea has been launched to develop several sets of criteria for the same product group. While the Commission seems to be going towards a three-layer system (three Flowers for the top 5% of the products, two Flowers for those between 5-25% and one Flower for 25%-50%)<sup>28</sup>, other proposals seem to favor a simpler, two-level system (with a distinction between “gold” and “normal” label).

<sup>29</sup> A system should be developed in which a product having a national Eco-label could be automatically eligible for the EU Flower. This would enhance the perception of the label and promote it more visibly in the eyes of producers and consumers. Nevertheless, a series of practical problems would have to be solved, such as differences in criteria between national and EU schemes.

<sup>30</sup> European Environmental Bureau, p. 29

<sup>31</sup> European Union Eco-labeling Board, Policy Management Group – *Possible synergies between the EU Eco-label and other product-related instruments and tools*, September 2004, p. 5, on [http://europa.eu.int/comm/environment/ecolabel/pdf/work\\_plan/mgtgroups/policy/backgdpapersynergiesp mg\\_300904.pdf](http://europa.eu.int/comm/environment/ecolabel/pdf/work_plan/mgtgroups/policy/backgdpapersynergiesp mg_300904.pdf)

<sup>32</sup> *ibid*, p. 14

framework and what the new framework should actually look like. The visions discussed took into account the integrative, life-cycle perspective of IPP, and proposed a product chain information system<sup>33</sup>. This system would integrate environmental management systems (such as EMAS), environmental product declarations and eco-labels, by making information for one usable for the others thus encouraging companies not only to implement environmentally-sound management systems, but also to produce environmentally-friendly goods. At this time, however, it does not seem that these proposals have been taken up by the Commission in its official IPP documents. Nevertheless, they might reappear on the agenda during discussions in the working groups or the pilot projects.

To review, the EU Eco-labeling scheme is potentially a good instrument, with good coverage of the product life-cycle stages and multiple opportunities for stakeholder involvement. Nevertheless, a series of structural weaknesses such as the long criteria development process and the lack of response from the market render it highly inefficient. The on-going revision process might find remedies and transform the scheme into a valuable asset for the IPP instrument mix. However, this depends on the willingness of public authorities, at all levels, to commit to actively promoting the scheme and to rendering it more attractive to industry. This might break the vicious circle in which the EU Scheme is currently stranded. Nevertheless, stakeholders expressed from the very beginning of the IPP development process their reticence concerning the use of the Eco-label. Thus, during the discussions in the Working Group 6 at the Stakeholders' Conference on IPP in March 2001, participants said they found it difficult to understand the emphasis on the Eco-label and EMAS given their limited success to date<sup>34</sup>. Moreover, this focus could be a barrier for SMEs<sup>35</sup>, due to the reasons described above. Given the fact that SMEs represent around 90% of all companies in the EU, then the dimension of the problem is even more obvious. Maybe the reform of the label should have preceded its inclusion on the list of IPP implementation tools, in order to ensure its working capacity before relying on it to achieve results within the IPP framework.

Despite the enthusiasm of the EU Eco-label policy-making community around IPP (that has not been turned into concrete measures by the IPP policy-makers yet), it seems that stakeholders do not make the link between the two. As for the other voluntary instruments under scrutiny in this report, EMAS and Voluntary Environmental Agreements, Eco-label is considered in isolation, as a tool to be considered mostly in the national context, while IPP is seen more as a philosophy than as an actual policy that needs to be implemented. If policy makers, both at the national and at the EU level, do not make a clear and strong link between the two, industry should not be expected to take the lead (based on their attitude towards the label so far).

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<sup>33</sup> *Possible vision for how the eco-label can develop in a new IPP framework*, on

[http://europa.eu.int/comm/environment/ecolabel/pdf/work\\_plan/mgtgroups/policy/ippframework.pdf](http://europa.eu.int/comm/environment/ecolabel/pdf/work_plan/mgtgroups/policy/ippframework.pdf)

<sup>34</sup> The IPP Green Paper: Launching the Stakeholder Debate Conference Report. Borschette Conference Centre, Brussels, 8-9<sup>th</sup> March 2001, p. 27

<sup>35</sup> *ibid*

### 3. The European Eco-Management and Audit Scheme (EMAS)

The EU Eco-Management and Audit Scheme (EMAS) is a voluntary management tool for all public and private sector organizations to evaluate, report and improve their environmental performance. Originally restricted to companies in industrial sectors, the scheme has been available since 1995 (Council Regulation 1836/93). Since 2001, it has been open to all organizations, both in the private and the public sectors (Regulation 761/2001). Despite the different ways in which an EMAS can be conducted, according to the profile and needs of each organization, there are several mandatory steps that need to be taken in order for the EMAS registration to be awarded. These steps include an environmental review, the drafting of an effective environmental management system, an environmental audit and a statement of environmental performance. Thus, as opposed to the Eco-Label scheme described above, which focuses on the environmental performance of particular products, EMAS deals with the overall environmental performance of an organization (production processes, activities, sites, etc). EMAS is based on the international standard ISO 14001, but goes beyond its requirements by adding four additional dimensions: legal compliance, employee involvement, binding annual improvement of environmental performance and the need for the registered sites to communicate their impacts on the environment.

Within this framework, the tasks of the Commission are to develop and supervise the scheme at the EU level, to co-ordinate promotion activities (it has already set up an EMAS Helpdesk), to ensure proper implementation, to keep and make public the register of EMAS verifiers and EMAS registered organizations, to provide technical support to Candidate Countries in setting up the structures for the implementation of the scheme, and to chair Art. 14 Committee (the steering committee of EMAS; it represents member states and interest groups). As for the Member States, they are in charge of creating the registration and verification scheme at the national level. In practice, this means that they designate a Competent Body<sup>36</sup> and an Accreditation Body<sup>37</sup>. Accreditation Bodies, in their turn, accredit EMAS verifiers whose mission is to check the organizations' compliance with the EMAS registration procedures and the reliability of the information provided. Member States also need to promote the scheme and to establish special assistance measures to help SMEs register and comply.

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<sup>36</sup> Competent Bodies are independent and neutral and are responsible of issuing registration numbers to the organizations that have successfully completed the EMAS registration steps, collecting registration fees, refusing, suspending or deleting organizations from the EMAS national register, responding enquiries concerning the register. The Competent Bodies from all Member States are engaged in a peer review process (they meet at least once a year) in order to ensure consistency across the EU.

<sup>37</sup> "An Accreditation Body is an independent, impartial institution or organization responsible for the accreditation and supervision of environmental verifiers and designated by the Member State. Member States may use existing accreditation institutions, the EMAS Competent Body or designate any other appropriate body. The Accreditation Body establishes, revises and updates a list of environmental verifiers and their scope of accreditation (according to Nace codes) in their Member State. Changes to this list have to be communicated to the Competent Body and the Commission. Consistency of procedures relating to the verification process is ensured by a peer review process of all Accreditation Bodies which meet at least once a year in the "Forum of Accreditation Bodies" (FAB) to exchange information and disseminate best practice. The FAB develops guidance in the field of accreditation, competence and supervision of environmental verifiers". ([http://europa.eu.int/comm/environment/emas/about/work\\_en.htm](http://europa.eu.int/comm/environment/emas/about/work_en.htm))

From a formal point of view, stakeholders only sit on the Article 14 Committee. They can also be represented in the national competent bodies, but this is different in each national context. The organizations that take part in the EMAS scheme need to demonstrate an open dialogue with all stakeholders, but this is difficult to assess in practice and it does not imply any oversight or control capacity. This lack of involvement in the actual implementation of the EMAS scheme has led NGOs to fear that EMAS might turn into an instrument that will be used instead of, and not in addition to, public authority control.

The academic analyses of the scheme have shown that the most powerful participation leverage is the granting of regulatory relief (such as less frequent inspections) for registered companies. Nevertheless, the possibility and scope for a lighter regulatory touch are primarily nationally specific since they are related to the national regulatory traditions<sup>38</sup>. In Germany for instance, the granting of regulatory relief<sup>39</sup> has led to the highest EMAS registration rates in the EU<sup>40</sup>. Other motives detected in the literature for adopting EMAS are: continuing improvements in environmental performance, identifying weaknesses and potential uses of energy sources, motivating employees, improving the image of the company, increasing legal certainty, improving internal organization and documentation, detecting and minimizing environmental and liability risks and reducing specific environmental impacts<sup>41</sup>. According to a recent study commissioned by the European Commission within the review of the Scheme, the main drivers pushing companies to register are mainly economic and strategic (competitive improvement, legal compliance, etc.), while environmental reasons such as the reduction of environmental impacts lag behind<sup>42</sup>.

Nevertheless, except for Germany, which accounts for more than half of the total number of EMAS registered sites and organizations in the EU, the scheme does not seem to be too successful<sup>43</sup>. This might be due to the capacity, and traditions, of member states to grant regulatory relief in exchange for EMAS registration, as shown by Glachant et al., but it could also be related to a series of other factors such as the nature of the Competent Bodies and the control capacity they possess (public authorities vs. chambers of commerce). Thus; for instance, the high number of EMAS-registered sites in Germany could be justified by the fact that the Competent Bodies are in fact Chambers of Commerce, that is private bodies, as opposed to the public nature of the Competent Bodies in Belgium for instance. This distinction between private and public Bodies could entail different degrees of control and EMAS-registration based on looser or stricter interpretations of the Regulation.

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<sup>38</sup> Glachant, M., Schucht, S., Bultmann, A., Watzold, W. – *Companies' Participation in EMAS: The Influence of the Public Regulator*, Business Strategy and the Environment, 11, 254-266, 2002

<sup>39</sup> "In Germany [...] public authorities provide more information and subsidies to EMAS participants and only grant regulatory relief to EMAS registered companies". Watzold, F., Bultmann, A., Eames, M., Lulofs, K., Schucht, S. – *EMAS and Regulatory Relief in Europe: Lessons from National Experience*, European Environment, 11, 37-48, 2001

<sup>40</sup> [http://europa.eu.int/comm/environment/emas/pdf/5\\_5articles\\_en.pdf](http://europa.eu.int/comm/environment/emas/pdf/5_5articles_en.pdf)

<sup>41</sup> Morrow, D., Rondinelli, D.- *Adopting Corporate Environmental Management Systems: Motivations and Results of ISO 14001 and EMAS Certification*, European Management Journal, vol. 20, no. 2, pp. 159-171, 2002

<sup>42</sup> EVER Study, p. 8

<sup>43</sup> [http://europa.eu.int/comm/environment/emas/pdf/5\\_5articles\\_en.pdf](http://europa.eu.int/comm/environment/emas/pdf/5_5articles_en.pdf)

One of the main barriers identified by companies and organizations to EMAS registration is the fact that EMAS prescribes an obligation to improve, which in turns means yearly progress in each of the indicators. This seems to be a rather hard objective to achieve in practice and organizations argue that progress should be assessed over a longer time span, to allow for short-term fluctuations. ISO 14001 does not impose this obligation, but only request proof of the willingness to improve, which to a certain extent makes it more attractive for companies. Another strong barrier, especially for SMEs, is the cost of implementation (mostly related to the cost of external consulting and verification)<sup>44</sup>. The list of barriers identified in the literature continues with the lack of customer interest and the lack of recognition and positive rewards by public institutions in certain cases<sup>45</sup>.

Still, as in the case of the EU Eco-labeling scheme, success cannot be assessed on figures alone. EMAS also has important indirect effects, among which the most important is its role as an inspiration for other schemes. In the Region of Brussels for instance, EMAS was taken as a model by the regional public authorities when they created a new label for companies, “enterprise eco-dynamique”. This label was created to respond to the needs of the service sector companies of the Region, for which EMAS was not the best suited tool.

Even when companies do register for EMAS, the results of the actual implementation of the scheme are mixed. A recent study shows that differences between companies using an environmental management system and those who do not in what concerns improvement in resource use and emission levels is statistically not significant<sup>46</sup>. Also, an EMAS certification is by no means a guarantee of absolute regulatory compliance<sup>47</sup>. On the other hand, EMAS registration does seem to have positive effects on the introduction rate of environmental innovation in companies<sup>48</sup> and on the procedural aspects of environmental management (recording of environmental data, etc.)<sup>49</sup>. Nevertheless, the internal administrative benefits seem to be limited, especially if we consider the significant number of drop-outs from the scheme<sup>50</sup>. The main reason for abandoning the scheme is precisely the lack of benefits, both in terms of internal organization and external recognition, as compared to the costs implied by participation.

Despite the mixed picture of EMAS throughout the EU, one thing seems to be clear: its success, or lack thereof, depends mostly on the attitude of public authorities (national or regional, according to the division of power in each Member State), on their willingness to provide regulatory relief for participating companies and on their pro-activeness. The latter can even lead to extreme applications, such as the compulsory nature of EMAS for certain enterprises and organizations<sup>51</sup> in the Walloon Region in

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<sup>44</sup> EVER Study, p. 9

<sup>45</sup> *ibid*

<sup>46</sup> Hertin et al. quoted in EVER Study, p. 3

<sup>47</sup> Dahlstrom et al. quoted in EVER Study, p. 4

<sup>48</sup> Rennings et al. quoted in EVER Study, p. 4

<sup>49</sup> Dahlstrom et al. quoted in EVER Study, p. 4

<sup>50</sup> For a more detailed discussion of drop-outs see EVER Study, p. 6

<sup>51</sup> In the Walloon Region EMAS is compulsory for public enterprises (such as water treatment plants, waste collection enterprises, etc) and for organizations that receive public subsidies.

Belgium, which completely deny the voluntary nature of the instrument. Nevertheless, it appears that despite the fact that they are obliged to register for EMAS, the enterprises that do so appreciate the advantages of the system (legislative certainty, putting order into one's business, etc.) once they have implemented it. This only reinforces the extremely important role of public authorities in "pushing" for EMAS; the first step towards doing so is by themselves setting an example registering their own sites. The Belgian government seems to be very much aware of this, as they have decided that all federal services are to implement EMAS by 2007<sup>52</sup>. The high influence that the attitude of public authorities has on the number of EMAS registrations is confirmed by the studies on EMAS pilot projects. Thus, EMAS uptake in the Member States has been directly linked to the level of information and funding available at the national level. More precisely, the number of EMAS pilot projects was, at an early stage, directly proportional to the number of EMAS registrations<sup>53</sup>.

Given that the success of EMAS depends on the attitudes of the national and regional authorities, a clear link should be made between the EU-level policy frameworks, such as the Integrated Product Policy, and a nationally/regionally applied voluntary instrument. In the Belgian case for instance, there is a clear separation between IPP and EMAS, given that IPP, as any "product policy", is a federal competence, while EMAS is a regional one and the coordination between the two bodies is far from ideal. If this lack of coherence can happen in a national context, then the difficulties of integrating such an instrument in an EU-level framework are obvious. Stakeholders themselves, when consulted by the Commission on the IPP Strategy, expressed their reticence towards using EMAS given the low take-up by industry<sup>54</sup>.

The Scheme is currently undergoing a review process, together with the EU Eco-label. There are no indications as to the reforms to be made, but they will most probably concern the relationship between EMAS and Corporate Social Responsibility, between EMAS and the EU Eco-label, and making EMAS global, among others. The Interim Report of the review process, recently published, limits itself to a review of the relevant literature and to a series of preliminary conclusions from interviews and does not provide additional information on the future reform measures.

#### 4. Voluntary Environmental Agreements (VEAs)

According to the Commission Communication of 2002 on Environmental Agreements at Community Level - Within the Framework of the Action Plan on the Simplification and Improvement of the Regulatory Environment<sup>55</sup>, environmental agreements at Community level are those by which stakeholders undertake to achieve pollution abatement, as defined in environmental law, or environmental objectives set out in Article 174 of the Treaty. Voluntary Environmental Agreements are seen by the Commission as being part of a mix of policy instruments, an implementation tool rather

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<sup>52</sup> <http://www.belgium.be/eportal/application?pageid=contentPage&docId=39489>

<sup>53</sup> EVER Study, p. 7

<sup>54</sup> The IPP Green Paper: Launching the Stakeholder Debate Conference Report. Borschette Conference Centre, Brussels, 8-9<sup>th</sup> March 2001, p. 27

<sup>55</sup> COM(2002)0278 final

than a means of deregulation. They have no specific Treaty basis but rely on a series of Communications from the Commission<sup>56</sup>.

There are three types of agreements possible at the EU level. First, co-regulation means that the legislator sets the legal framework, the stakeholders fill in the details and public authorities either monitor the outcome, or sometimes validate those more detailed rules by turning them into binding regulations. In practice, at the EU level this means that the Commission drafts an environmental agreement (either on its own initiative or in response to voluntary action on the part of industry), the Council and the EP set the targets and the monitoring requirements, while industry decides what measures to take and how. If this does not produce the expected results, the Commission can always exercise its right of initiative and introduce a legislative proposal that would lead to a legally binding outcome. Second, self-regulation covers a large number of practices, common rules, codes of conduct and voluntary agreements with economic operators, social players, NGOs and organized groups establishing voluntary bases in order to regulate and organize their activities. It does not involve a legislative act. At the EU level, the Commission can acknowledge such an agreement by a Commission Recommendation (after consultation with the Council and the EP) and additional monitoring obligations can be added by a Decision of the EP. The Commission recommendation of the agreement is then published in the Official Journal. The Commission will follow-up the implementation of the agreement and inform the Council, EP and the public of its findings. Third, own-initiative means that industry takes an initiative in an area where the Commission has no intention to propose legislation. The agreement can be endorsed by the Commission through a formal recognition of it.

The 1996 Communication on Environmental Agreements identified a set of criteria for ensuring the success of environmental agreements: prior consultation with interested parties, a binding form, quantified and staged objectives, the monitoring of results as well as the publication of the agreement and of the results obtained. These criteria should make it possible to avoid the stipulation of vague objectives, lack of transparency and possible distortion of competition caused by free-riders. In addition, in its Communication of 2002, the Commission recalls that an environmental agreement must deliver added value in terms of a high level of protection of the environment. Therefore, before acknowledging an environmental agreement, the Commission must make sure that it goes beyond "business as usual".

The recent directive on Ecodesign<sup>57</sup> offers more insight into the Commission conceptualization of VEAs and of their possible use at the EU level<sup>58</sup>. In its initial

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<sup>56</sup> COM(1996) 561 final "Communication on Environmental Agreements", COM(2002) 0278 final Communication Action plan "Simplifying and improving the regulatory environment", COM(2002) 0412 final "Communication Environmental Agreements at Community Level Within the Framework of the Action Plan on the Simplification and Improvement of the Regulatory Environment"

<sup>57</sup> Directive 2005/32/EC of the European Parliament and of the Council establishing a framework for the setting of ecodesign requirements for energy-using products and amending Council directive 92/42/EEC and directives 96/57/EC and 2000/55/EC of the European Parliament and of the Council

<sup>58</sup> For a detailed discussion of the EuP directive see Missonne, D. - *The Directive on Ecodesign, the way forward regarding IPP ?*, ELNI review, 2005/2, pp.16-28

proposal<sup>59</sup>, the Commission stated that the adoption of a framework directive on eco-design requirements would reinforce the potential impact of self-regulation by the industry. More concretely, a satisfactory agreement would be a sufficient justification for deciding not to adopt an implementing measure and, therefore, not to set the regime created by the Directive into motion. Nevertheless, the draft directive is silent on what a “satisfactory” agreement is. It is only in the final text of the Directive that criteria are listed. Thus, Annex VIII contains a non-exhaustive list of indicative criteria that may be used to evaluate the admissibility of self-regulatory initiatives as an alternative to implementing measures. The voluntary agreement must make proof of: openness of participation, added value, representativeness, quantified and staged objectives, involvement of civil society, monitoring and reporting, cost-effectiveness of administration, sustainability and incentive compatibility. In addition, the Commission makes reference to the criteria set out in its Communication on Environmental Agreements (listed above) as useful assessment instruments. Self-regulation, according to the Preamble of the EuP Directive, “can provide for quick progress due to rapid and cost-effective implementation, and allows for flexible and appropriate adaptation to technological options and market sensitivities”<sup>60</sup>.

Still, three questions beg to be asked. First, it is not clear why the Commission opted for VEAs to be used as self-regulation and not as co-regulation. In a co-regulation process, voluntary agreements would have been a way to adopt supplementary provisions to the Directive rather than an alternative to it. In fact, VEAs used as self-regulation and as an alternative to implementing measures basically stop the mechanism of the Directive from being put into practice. Without implementing measures, producers no longer enjoy non-restricted access to the EU market, Member States being free to impose their own environmental conditions. If voluntary agreements would have been provided for as co-regulation, then they would have fallen within the scope of the Directive and producers would have enjoyed the same benefits as with implementing measures.

Second, one can ask where the incentive for the industry shall lay : in concluding successful agreements in order to avoid the whole new regime and remain in a self-regulatory process, thus avoiding the probably heavy participatory requirements for developing implementing measures in cooperation with other stakeholders or, on the contrary, to stimulate the adoption of Commission decisions which would offer them a favored access to all markets and the guarantee of no other national measures being adopted<sup>61</sup>.

Third, the text of the Directive does not clarify whether the Commission has the national or the European level in mind when arguing for voluntary agreements. Given that they would be an alternative to EU-wide implementing measures, the assumption is that the VEAs would also have to be EU-wide, with all the practical problems this would entail.

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<sup>59</sup> Proposal for a Directive of the European Parliament and the Council On establishing a framework for the setting of Eco-design requirements for Energy-Using Products and amending Council Directive 92/42/EEC (presented by the Commission), COM(2003) 453 final

<sup>60</sup> Directive 2005/32/EC, p. 6

<sup>61</sup> Missonne, D. - *The Directive on Ecodesign, the way forward regarding IPP ?*, ELNI review, 2005/2, pp.16-28

At the EU level only a few VEAs have been concluded, the most well-known being the 1998 agreement between the European Commission and the European Car Manufacture Association (ACEA) aimed at reducing CO2 emissions from passenger cars. A new environmental agreement in the form of a unilateral industry self-commitment was proposed in 2004 (and endorsed by DG Enterprise) by a consortium of companies producing biodegradable and compostable polymers designed to ensure the observance of standard EN 13432<sup>62</sup> in the production of biodegradable and compostable polymers. If the application of the former has been heavily criticized by NGOs<sup>63</sup>, the effectiveness of the latter cannot be assessed for the moment due to the short time elapsed since its conclusion. Nevertheless, its story is illustrative for the use of self-regulation at the EU level, especially keeping in mind the boost given to self-regulatory voluntary agreements by the EuP directive. Standard 13432 describes, in fact, when a product is “compostable”, conclusion to be reached via a series of test methods. Based on the results of the tests, a label is awarded to products that qualify – it is, in practice, a quality label that shows compliance with standard EN 13432. A label can be protected (from a juridical point of view), while concepts such as “compostable” and “biodegradable” cannot be protected and have been used abusively by producers. The first purpose of the self-commitment is, therefore, to put the basis of and protect a label indicating compostability. The federations behind the agreement are made up precisely of producers of bio-based and bio-degradable polymers, which in turn make up compostable packaging. Their market penetration at the moment is extremely limited and they are very active in promoting their products at national level. An EU-endorsed agreement ensures both free publicity (given that the Commission needs to publicize the agreement) and additional leverage power in national negotiations. As for DG Enterprise, who not only endorsed the agreement but had actually helped prepare it, it mainly wanted a VEA (the first one after the 2002 Communication) and took advantage of its working group on Renewable Raw Materials being out of work at a certain moment to serve as a negotiating forum for the agreement. This story mainly shows that for self-regulation to occur pro-active industry is needed; industry seems to be pro-active mostly when it is made up of non-dominant market players (companies well established on the market generally resist any change in the status quo). The other lesson to be drawn from this story is that DG Enterprise and DG Environment have different understandings of what a VEA should be. DG Environment was not involved in the preparation of the self-commitment and now argues it would not have acknowledged it because it brings no added value in environmental terms<sup>64</sup>. On the other hand, DG Enterprise is not at peace with the definition of VEAs as proposed by the Commission in its Communications and is more in favor of voluntary initiatives and self commitments from industry (for which this particular agreement is an example)<sup>65</sup>. Given the stress on self-regulation in the EuP Directive, it seems that for the moment it is the vision of DG Enterprise that prevailed.

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<sup>62</sup> The norm EN13432 defines biodegradability and compostability and is recommended in the Directive on Packaging and Packaging Waste 94/62/EC.

<sup>63</sup> See for instance the WWF Discussion Paper *Will voluntary agreements at EU level deliver on environmental objectives? Lessons from the agreement with the automotive industry*, on <http://www.uneptie.org/outreach/vi/reports/wwf.pdf>

<sup>64</sup> interview DG Environment, April 7, 2005

<sup>65</sup> interview DG Enterprise, March 29, 2005

Despite the limited number of VEAs concluded at the EU level, both NGOs and the European Parliament have been extremely critical of the use of this instrument by the Commission for several reasons. It is argued that there is little evidence that environmental agreements are effective, that the existing control systems are based on self-monitoring and hence subjective and that negotiated agreements (when industry commits itself to a certain environmental performance while the government in return agrees to refrain from direct regulation in this issue area while the agreement is in effect) severely restrict the range of policy options for future governments<sup>66</sup>. Besides, these agreements are often concluded in the absence of parliamentary control and without the participation of the public in the negotiations. Industry on the other hand, wants the agreements to retain as much flexibility as possible and is not too happy about publicizing negotiations and results.

The academic analyses of VEAs have linked the emergence of joint approaches to the characteristics of the general policy culture: a consensual rather than an adversarial style and a pragmatic rather than a legalistic approach are more conducive to the development and use of joint approaches and voluntary agreements<sup>67</sup>. This might explain the higher incidence of national VEAs in countries like Germany or The Netherlands.

The advantages for participating firms are regulatory flexibility, preemption of existing regulation, improved anticipation of future regulation, increased opportunities to develop innovative environmental solutions that can improve industrial performance and provide competitive advantages, the exchange of tacit knowledge<sup>68</sup>. The main disadvantages are, for industry, the fact that both the bargaining process and the administration of the agreement require resources, transaction costs, free-riding partner firms, disclosure of confidential information to regulators, third parties and competitors, while for the regulator the risk of poor compliance and the risk of being captured by one specific industry<sup>69</sup> seem to be the main downsides.

In general, students of VEAs seem to agree on the fact that preference learning and utility derived from a participatory process are central aspects of VAs; the negotiation process itself provides information that would not be available given a traditional type of regulation<sup>70</sup>. Moreover, VEAs can be seen as arenas where parties meet to voluntarily “exchange” bargaining power, in the sense that the regulator makes concessions with respect to pollution abatement in exchange for industry concessions with respect to layoff decisions<sup>71</sup>.

It is interesting to see that, according to the literature, VEAs are a clear favorite both of industry and of public authorities. Thus, industry prefers VAs to taxation owing to lower enforcement costs while the authorities do the same because of lower transaction

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<sup>66</sup> <http://www.euractiv.com/Article?tcaturi=tcm:29-117478-16&type=LinksDossier>

<sup>67</sup> Ingram, V. – *From sparring partners to bedfellows: joint approaches to environmental policy-making*, European Environment, 9, pp. 41-48, 1999

<sup>68</sup> Delmas, M., Terlaak, A. – *A Framework for Analyzing Environmental Voluntary Agreements*, California Management Review, vol. 43, no. 3, pp. 44- 63, 2001

<sup>69</sup> *ibid*

<sup>70</sup> Grepperud, S. – *Voluntary environmental agreements: bargaining over more than emissions*, European Journal of Political Economy, 18, pp. 545-559, 2002

<sup>71</sup> *ibid*

costs<sup>72</sup>. Also, industry prefers VAs to licenses because negotiated emissions are higher than the emissions expected to be required by the use of licences and because abatement costs are lower. The authorities prefer VAs because they involve both lower transaction and abatement costs<sup>73</sup>. In addition, public voluntary agreements are often proposed in the absence of strong legislative threats; regulatory authorities often use such agreements precisely because they lack statutory authority to undertake more stringent measures. Companies join public VAs in order to obtain the benefits offered to participants by the government. Such agreements can be thus viewed as subsidies from governments to firms, aimed at inducing environmentally friendly actions by the participating firms<sup>74</sup>.

Nevertheless, this optimistic account does not seem to match the figures, at least not at the EU level. Therefore, it might be the case that the success of VEAs depends heavily on the national capacity of Member States to offer regulatory relief to participating companies. This would explain the relative success of VEAs at national levels (according to OECD figures there were 317 VAs in the EU countries in 1997)<sup>75</sup> as compared to the extremely limited amount of initiatives at the EU level. Still, national design and implementation of VEAs is not devoid of problems. In Belgium for instance, most agreements are concluded within the legal framework of the producer/importer take-back obligation for certain products. The objectives are set by the legislator at the national level, while regional authorities negotiate agreements with industry and lets the latter organize itself and find the ways to reach the objectives. Industry seems to appreciate its margin of discretion and its power to actually set-up the mechanisms of implementation, but, at the same time, is not at all comfortable with the objectives being set by the legislator (in most cases without extended consultation with the industry concerned). Regional authorities promote the use of VEAs in order to avoid the complicated internal legislative procedures and, sometimes, overstep their competencies<sup>76</sup>, but industry is not always happy to see regions imposing requirements that are not within their powers.

Given the equally mixed balance of VEAs at national levels (we have to admit that VEAs do actually deliver more in national contexts than at the EU level), not to mention the pretty somber picture at EU level, the appropriateness of this instrument for big EU-level framework policy purposes needs to be questioned from at least one perspective. A clear and workable set of criteria should be identified and applied. The literature on environmental agreements is extremely rich in conditions for success that could be taken as an inspiration by policy-makers to turn VEAs into a workable instrument. The guidelines of the Commission are admirable on paper and some authors have even proposed taking them as criteria for both national and EU-level agreements and developing a Europe-wide mechanism to monitor the implementation of the

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<sup>72</sup> Schmeltzer quoted in Grepperud, S., Pedersen, P. – *Voluntary Environmental Agreements: Taking Up Positions and Meeting Pressure*, Economics and Politics, vol. 15, no. 3, pp. 303-321, 2003

<sup>73</sup> Segerson and Miceli quoted in Grepperud&Pedersen, p. 304

<sup>74</sup> Lyon, T., Maxwell, J. – *Self-regulation, taxation and public voluntary environmental agreements*, Journal of Public Economics, 87, pp. 1453-1486, 2003

<sup>75</sup> OECD - *Voluntary approaches for environmental policy – an assessment*, 1997

<sup>76</sup> For instance in Belgium “waste” is a regional competence while everything related to “prevention” is federal. Thus, if a regional authority wants to regulate on waste and to include a prevention dimension into it, it is easier to negotiate a VEA then to get into the regional-federal legislative game.

guidelines<sup>77</sup>. In the absence of such mechanisms, it is hard to imagine what kind of VEAs the Commission envisages as implementation tools for IPP or the EuP directive. If it is EU-level VEAs that the Commission wants to promote, the question remains of whether they would be used as self-regulation or as co-regulation. Following the example of the EuP Directive it might seem that self-regulation is the way forward for EU-level agreements. Nevertheless, for self-regulation to happen industry would need to be pro-active, which does not seem to be the case so far, especially where there is no regulatory relief in exchange. If it is national-level VEAs that the Commission envisages, then a series of co-ordination mechanisms would be needed in order to ensure, for instance, that free market principles are not violated.

## 6. Conclusions

The relatively pessimistic account of some of the voluntary instruments currently used in EU environmental policy frameworks is by no means a plea for regulation. The purpose of this paper was merely to review the current situation in the design and implementation of the EU Eco-labeling scheme, EMAS and Voluntary Environmental Agreements and to show that, due to a series of shortcomings in their current functioning, relying on such instruments for big and ambitious EU-level policies might prove to be problematic. IPP, the EuP directive, ETAP, are just a few examples of ambitious EU initiative that heavily rely on such instruments. If they are expected to deliver, then either the voluntary instruments need to be reviewed (the EU Eco-labeling scheme and EMAS are in fact currently under revision), or the Commission should find a way to make them work without changing their design. The second option necessarily goes through convincing national and regional public authorities to take a pro-active stance in promoting these instruments, which, as shown above, is currently not always the case.

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<sup>77</sup> Volpi, S., Singer, S. – *EU-level Agreements: A Successful Tool? Lessons from the agreement with the automotive industry*, in ten Brink, P. (ed.) – *Voluntary Environmental Agreements. Process, practice and future use*, Sheffield, Greenleaf Publishing, 2002

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