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EFR and EUROMETREC's response to the Public Consultation on "The Competitiveness of the European Metals Industry: the Impact of Raw Materials and Energy Supply"

EFR and EUROMETREC are European Trade Federations comprising national associations representing companies that collect, sort and process respectively ferrous scrap metals and non-ferrous scrap metal. These companies are found in nearly every town and city in the EU25 and are estimated to number more than 7000 with the majority being classified as micro enterprises with less than 10 persons employed, and the largest being multi-national enterprises each handling over a million tonnes of scrap metal per year. The scrap sector is therefore pyramidal in structure with many micro enterprises at the widest part of the pyramid and some ten or so multi-nationals at the point.

Once collected, sorted and processed to a quality specification, much of the processed scrap metal is sold, and bought by the several hundred metal-works (also called melting, smelting or refining companies) within the EU. Currently more scrap is collected in the EU25 than can be sold in the EU25 and so scrap is exported to metal-works in other parts of the world. It is also the case that different metal works take different categories of scrap metal.

Downstream of the metal-works are many thousands of enterprises that use the metals in manufacturing of products. At numerous stages of the utilisation of semi-products by these thousands of companies scrap metals may arise from the cutting, machining and fabrication processes. That scrap will be collected, sorted and processed by scrap metal merchants and in the continuous recycling loop sold again to the metal-works. From the thousands of enterprises unitising the metals in their manufacturing of capital goods and consumer goods the metal is used in products with lifetimes varying from under 1 year (e.g., in drinks cans) to over 30 years (in buildings for example).

The EU metals industry is therefore far larger than that described in Section 2 of the Commission's Public Consultation document and the Commission Staff Working Document (SEC(2006)1069). Those documents appear to refer to the Raw Materials Supply experienced by a small number of companies within the EU metals industry but by no means experienced by the majority of companies making up the sector.

However issues of EU Energy Supply will affect nearly all companies though those requiring the most energy will be the more sensitive. The EU metals industry is comprised more of a long chain of linked companies than of a homogenous block of manufacturers of iron & steel, non-ferrous metals, ferro-alloys, and the casting of iron & steel and non-ferrous metals. It is therefore most important that the issues of Raw Materials Supply and Energy Supply are separated and identified with their particular link in the chain of EU metals industry companies before any policy actions are taken that may adversely affect others in the chain.

It is in general desirable that the EU25 maintains within its territory most all companies that make up the chain of metals industry companies from primary producers to recyclers

and all in between, including consumers of metal containing goods and collectors, sorters and processors of end-of life goods. It is natural for companies to foster business dealings nationally first, before looking for regional business opportunities or further to the world's markets, so a diverse range of companies with their associated skills and employment should be encouraged in the EU25.

Energy supply

Companies that collect, sort and process either ferrous or non-ferrous scrap metal are not large energy consumers when compared to the metal-works. Nevertheless energy costs are a consideration in the mechanical processing and sorting of scrap metals, and fuel costs are a significant factor in the overall transport costs for the collection and distribution of these materials particularly overland intra-EU. It is the general expectation that energy markets should function in a competitive manner and reflect in their prices worldwide supply and demand.

Scrap metal prices

In an ideal world the selling price of the scrap metal is determined by market conditions of supply and demand. For the more common non-ferrous metals such as aluminium, copper, lead and zinc, the scrap price is related in some part, to the prices for primary metals on the commodity exchanges such as the London Metals Exchange. Those are world prices. The world selling price for a particular metal provides the direct incentive for the thousands of micro enterprises to collect new scrap, or old scrap or metal containing end-of- life goods. This is demonstrated by the observable drop in collection volumes whenever the selling price drops. Collection volumes also drop during the metal works' holiday periods, which also demonstrate the sensitivity of the market supply to the market demand. Other factors than simply price make transactions between a certain seller and buyer more attractive, for example the terms of payment. In the EU25 payment may generally take up to three months, whereas in competing economies payment may be immediate.

Scrap metal availability

There are two basic sources of scrap arising, there is "new scrap" that comes from current industrial production such as off-cuts and machine swarf, and "old scrap" that comes from end-of-life goods and wastes. It should be obvious then that there is a finite limit to the amount of scrap that can be collected in any community, country or region. In this respect scrap is not the same as primary material for which new sources from mines maybe found. When the collection of scrap is already optimised, more effort cannot be expended with the expectation that more scrap will be collected in return. Nevertheless the term "scrap shortage" is often heard which can be misleading. Due to the recycling industry structure, and that scrap may be a substitute for virgin metal, it is however possible to build more capacity in metal works for scrap metal than there is scrap metal to be collected, so demand may remain high and prices remain high. Therefore it could be misleading to claim at any time that there is a shortage of scrap. Likewise descriptions in the market of an oversupply of scrap are temporal. Scrap yards, sorters and processors of scrap metal may also experience at certain periods of time shortages of either "new scrap" due to a downturn in industrial manufacturing, or in the case of shortages of "old scrap" exports of unsorted or unprocessed end-of-life goods can make EU25 sorters and processors short of material. There may also be distortions felt in the local market place

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for metal bearing wastes due to municipal waste management practices. Whilst the markets for scrap metals have been around for thousands of years, nowadays there is much emphasis on recycling as a cornerstone of Sustainable Materials Management, and so it is in the interests of society as a whole that collection of scrap is optimised.

Whilst metal melting and refining companies have in some cases sought to secure their ores and concentrates supply by taking over iron ore mining capacities outside the EU, in contrast the take over of scrap collection, sorting and processing capacities in order to secure supply of scrap metals into metal works that complain of too high scrap prices is infrequent.

Scrap metal trade distortions

Problems do arise to threaten the free and fair trade in scrap, such problems are mostly caused by Government intervention. Most commonly Governments intervene by placing export quotas or duties on scrap metals, less frequent are import licences, or controls on imports or trade prohibitions. The Commission's paper is correct in identifying that "some of the EU's biggest trading partners are applying strategies and policy measures in order to secure access to supply of these raw materials" (of scrap metal as secondary raw materials). The extent of these strategies and policy measures may, particularly where the state has large shares in metal works, include direct subsidisation (tax refunds and/or discounted interest rates), indirect preferential policies, cash grants (e.g. to defray costs for raw materials and energy), land grants, preferential loans and credits, tax benefits for companies located in special economic areas (e.g. industrial parks), and national currency manipulation against the dollar or Euro.

Furthermore the UN- EP Basel Convention and its derivative legislation at regional or national level makes the trade in certain end-of-life goods and processed scrap complicated, time-consuming and where insurances and financial guarantees are required, more costly. Most legislative measures on the transboundary movement (shipments) of waste avoid applying the principles of proximity and self-sufficiency on wastes for recovery in order to comply with WTO rules as wastes are also goods. There is however a growing tendency to protectionism of national recycling facilities by Governments hindering or even preventing the export of wastes. The EU25 may address these distortions whether in intra-EU trade or caused by third countries on a case-by-case basis with available instruments.

Distortions are not caused by third countries alone, currently trade in scrap within the EU25 is distorted in a number of areas e.g. by VAT fraud.

The elimination of competitive distortions and the securing of a level playing-field for access to both primary and secondary raw materials are vital.

Competitiveness analysis should not limit the elements analysed.

The ability of certain EU scrap processors and certain EU metal works to remain competitive in the global marketplace is endangered by the increasing operating costs for businesses within Europe.

We suggest that the Competitiveness analysis should also consider transportation costs, since it can be observed that the cost of overland transport within the EU25 can be

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appreciably higher than deep-sea transport. Also the Competitiveness analysis should consider other factors such as labour costs and site clean-up costs. Some statements are made in the current documents about the past closure of metal works in Europe where it is by no means obvious that they closed due to either the lack of or high price of raw materials or the high prices of energy. The comparison of EU metal works with those outside the EU, by benchmarking for example, should be considered before any intervention is undertaken in order that all likely elements are analysed.

EFR and EUROMETREC fully support the Commission's proposal to improve the competitiveness of the European metals sector, with policy actions in line with the European Partnership for Growth and Jobs in the framework of the Lisbon Programme. An integrated and coordinated approach is required by the Commission, Member States and stakeholders.

EFR and EUROMETREC comment on the main policy areas identified as requiring implementation actions.

5.1 Better and simplified legislation

a) Implementation of waste legislation

This draft legislation for the revision of the Waste Framework Directive is currently under discussion at the European Parliament and at the Council of the European Union. The revision of the Waste Framework Directive gives the opportunity to improve and simplify the basis of the waste legislation in the EU25. There are now three key issues outstanding in the waste framework Directive for the metals industry. Firstly the "Waste hierarchy" where it is important that the positive properties of metals, that they can be recycled again and again without loss of quality, should be recognised by a separate "Recycling" step in the hierarchy. Secondly that the definition of recycling differentiates between operations that produce recycled materials of similar quality as the original materials (e.g. as for metals recycling) and operations where the output is not of a similar quality to the original material or where the output is something other than material. Thirdly, that an efficient legislative process is established to determine the "End-of-Waste", allowing in cases meeting certain yet-to-be established criteria that this comes when the scrap has been sufficiently sorted or processed. The reason for this is that currently sorted and processed metal scrap is listed on the same list as for example end-of-life goods and municipal wastes, and whilst certain policy instruments might be suited to the latter two wastes, for metal scrap the same policy instruments may seriously disrupt the metals market.

Put another way the "waste management" philosophy cannot on its own produce a balanced strategy within a framework of sustainable development.

The metals recycling industry has consistently objected to legislation that defines as waste a high-value secondary raw material that is globally subjected to vigorous commercial competition. Furthermore certain recycled metals suffer from restricted markets due to their inappropriate waste cachet.

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Proposal:

Simplify and improve the Waste Framework Directive by, amongst other things, providing precise definitions which are unambiguous and will not lead to different interpretations or referrals to the European Court of Justice. The waste hierarchy should maintain a preference for recyclable materials, such as metals, above other materials that cannot be recycled again and again. A legislative route is needed to allow that waste ceases to be waste at a point as early as possible in the recycling circuit in the case of scrap metal in order to enable the market to function better.

b) Substances legislation - REACH

This draft legislation is currently under discussion at the European Parliament and at the Council of the European Union. The decision to exclude wastes from the scope of REACH was both practical and pragmatic. A similar exclusion should be made for Secondary Raw Materials as substituting for already excluded ores and concentrates. REACH will not work for Secondary Raw Materials as these materials may have a small percentage of entrained particles which do not harm human health or the environment in the utilization of the metal scrap but may vary day to day and so make REACH unworkable. It is because of this that REACH may have the perverse effect of encouraging the export of scrap metal as Secondary Raw Materials.

5.1.2. If REACH is to apply to ores, concentrates or secondary raw materials that would seriously jeopardize access to necessary raw materials for the EU metals industry. Furthermore REACH will likely discourage the import of uncommon / small quantities of special metals which are necessary for the development and production of high technology materials, metal alloys, coatings etc.

Proposal:

The scope of REACH must be readdressed.

c) Thematic Strategy on natural resources

5.2 Metals recycling

The fields of action identified in the Thematic Strategies may be seen as somewhat weak on promoting recycling. Such issues as the cost burdens imposed by tighter rules in the EU, which damages the international competitiveness of the EU metals industry in the global market should be properly examined. A thriving EU metals recycling industry should be encouraged, and along with a thriving metals industry and its associated downstream industry should be a policy goal.

Economic instruments such as a reduced landfill tax, or no tax, on waste from certain recycling operations could promote recycling, in specific cases this can encourage more processing to further optimise metal recovery within the EU in particular, and as the recovery of metals is normally the driver for the recycling of many multi-material wastes this in turn may reduce non-metallic wastes going to landfill.

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Whilst there are national schemes to promote recycling it is necessary to review these to ensure that monies to improve recycling are directed to the more critical points earlier in the recycling chain.

Subsidies on virgin raw materials that compete with recycled materials should be removed.

Plainly, in the interests of access to materials, EU import duties should be removed from any metal ingots, sheets or coils.

More could be asked of CEN to encourage the Technical Committees to integrate recycling criteria in all products standards. Design for recycling (as part of eco-design) is a desirable measure. Furthermore, recycling criteria should be considered and defined in the CEN mandates.

5.3 Electricity supply and climate change

a) liberalisation and functioning of the electricity market

Almost all products of the metals industries are traded internationally as commodities, and so their prices are set globally on the exchanges such as the LME. It follows that any increase in energy costs in the EU region only, that increase the EU metals industry production costs, cannot be passed onto customers without the EU metals industry losing market share. An EU policy goal must be to ensure a proper functioning of the global energy market.

b) EU emission trading and post-Kyoto outlook

5.5 Fair global competition in metals production and trade

Efforts should be made to identify and remove any barriers preventing EU metal works from paying for scrap metal under payment terms at least as good as those offered by metal works outside the EU. Sellers prefer buyers that pay promptly.

In bilateral and multilateral negotiations every opportunity must be taken to ensure that export restrictions/and or duties and or subsidies are eliminated in order to level the playing field of access to raw materials.