

## **Ecodesign Directive evaluation - First stakeholder meeting**

### **Notes**

The meeting was structured around 4 key thematic areas that included:

- Effectiveness of the Directive
- Efficiency of the implementation procedures of the Directive
- Market surveillance and enforcement of the Directive
- Assessment of the feasibility of extending the Directive to cover non-energy related products

Each thematic area was discussed in separate sessions. They were initiated with a presentation of CSES that presented the methodology followed and analysed the findings of the study so far. It was followed by short presentations by some stakeholders and an open discussion. All presentations are available in the project website.

### **Effectiveness of the Ecodesign Directive:**

The session was initiated by a presentation of Oxford Research on the approach that will be followed for the evaluation of the Directive. It was followed by presentations of Orgalime and CECED (see presentations).

A number of points were made during the open discussion that followed:

### **On the effectiveness of the Directive**

- **(CECED)** The Directive represents a key instrument for the achievement of the target of 20% reductions of emissions by 2020. As a potentially overarching and co-ordinating instrument, the Directive provides an opportunity for a consistent regulatory approach to environmental issues, especially through the application of Article 15.6. But this opportunity for a holistic approach is being missed, since the Directive has not adopted this role. In particular, there continue to be inconsistencies, especially with WEEE and RoHS Directives.  
The legislative approach under the Directive brings results more quickly than 'ordinary' approaches do, even though it takes time to develop standards etc.
- **(ECOS)** It is difficult to assess the effectiveness as some measures have just entered into force. It may be possible however to comment on the likely impact of the Directive by drawing on data from countries outside of the EU. This can show how the market will look going forward.  
In the case of domestic light bulbs some direct effects are observable. The price of the cheapest efficient domestic light bulbs has decreased from € 7 or 8 to around € 1 and is a clear case.
- **(CECED)** There is a need for a 'push-pull' alignment of Ecodesign with other policies such as Energy Label. This will also provide tools for the Ecodesign Directive so that energy efficient and expensive products are taken up by consumers. [join with earlier entry]

- **(Orgalime)** The Ecodesign Directive has stimulated competition with Non-EU manufacturers. On the other hand, there is some concern about the link of the Directive with other tools such as the Green Public Procurement. The research is not always science-based. There is also a trend to promote best performing (eco label) instead of socio economic approach to support necessary massive market diffusion.

#### **On the proposed methodology of the study**

- **(ANEC)** The study should also consider the possible role of consumer behavior. Consumers may prefer to repair an old product instead of buying new products that comply with the requirements.
- **(Swedish energy agency)** The methodology seems to focus on the time before and after the requirements come into force. This does not capture the dynamic aspects of the process in industry. The impacts can be much greater than what the results will show because the industry adapts before the process starts. The use of an adoption date as the baseline means that anticipatory action is not taken into account. Can our presentation of data take this into account?

#### **On data availability**

- **(Dutch Energy Agency)** There is limited availability of data in Europe to support the monitoring of the implementation of the Directive, especially when compared with USA/Australia. There is no registration of manufacturer's products which would support data collection. Such data could be collected to support studies and market surveillance. Perhaps it would not be a significant administrative burden for firms and it is important to check the availability of data for future policy improvements.

## **2. Efficiency of the Ecodesign process:**

The session began with a presentation of the initial results of the stakeholder survey and other material by CSES and was followed by presentations by ECOS and Teknikforetagen(see presentations in website).

The open discussion that followed focused on the following points:

#### **On the resources of the Commission**

- **(ECOS):** The capacity of the Commission to play its part in the process is critical and so far the resources dedicated are not sufficient. A comparison with the resources devoted by the US for similar activities could illustrate this point.
- **(Teknikforetagen) :** There is not enough staff dedicated by the Commission and not enough prioritisation set and deadlines (especially Work Plan). This leads to delays in the development of implementing measures.

## On the procedures

- **(CECED):** The Ecodesign legislative process was supposed to be faster but the adoption of implementing measures has in fact been slow. There is also a lack of proper market and technical data to carry out the studies and develop impact assessments of the measures.

The working plan itself should be more 'binding' (products, environmental dimensions, milestones and deadlines). There should be mainstream preparatory studies to avoid double work and possibly save money.

- **(Tekniforetagen):** The consultation forum represents a good opportunity to have dialogue. Drafts were circulated which proved transparency of the process, although time for comments is often too short and in some cases there were significant changes in drafts at late stages. The Work Plan is not always followed and it is less predictable, therefore it is difficult to do long term planning.

The Preparatory studies take a long time and they are often out of date when finalized. There is also an unclear situation caused by changes in the timetable and a long time between finalised preparatory studies and the adoption of implementing measures, which causes difficulties for companies in their adoption.

The procedures could certainly be refined, building on experience with the current framework. With the Work Plan, for instance, there is not enough prioritisation and no deadlines and in retrospect more detail could have been accumulated at this stage.

The setting of implementing measures is a political process and the changes introduced at a late stage by the Council and Parliament are often significant. While the right of the legislators to do this is recognised, there is also disruption to business planning and the timing of environmental impacts that this causes, since many firms try to anticipate requirements.

- **(ECOS)** There could be more guidance docs (streamline requirements and avoiding repetitive debates). Consultation and consolidation could be more structured around early compromise building. With communication efforts, detrimental impact of negative buzz could be avoided.
- **(Orgalime)** Information and guidance for SMEs are likely to become more important as the implementing measures move on to markets where SMEs account for a larger proportion of output than in those already covered.

## On the MEEuP

- **(JRC)** The evidence examined by the JRC and others, suggests that concentration on energy issues is appropriate for EuPs. The measures to promote energy efficiency generally also promote better performance in other areas.
- There are problems in the consistency of implementation (and testing) of products where performance levels have been set and perhaps the Ecodesign Directive is not the appropriate instrument for this type of approach.
- **(EAA-EUROFER-EUROMETAUX)** The metals industries collectively have severe reservations as to the current methodological MEEuP approach and require its revision to ensure that metals receive a fair treatment compared to other materials. This would be of high importance in case

the MEEuP methodology would be applied to assess production and end-of-life stages of products.

### **On the role of standards**

- **(Orgalime)** :Standardisation could also help in the process of developing implementing measures. Particularly if Mandates came earlier than currently.
- **(CECED)**: At this stage there is no good relation/linkage with the development of standards.

### **On Voluntary agreements**

- **(EEB)** Voluntary agreements have not saved time and they have been less transparent. There is also no evidence that they work better as there is always a tension between improving the situation and getting everyone on board. **(Netherlands energy ministry)** VAs are less effective as they are subject to different interests of stakeholders, and the process is a very delicate one and does also take time. If it is too ambitious then groups will not sign up to it. Regulatory measures are sometimes preferable as they provide level playing fields. For VAs to work a small number of 3 or 4 dominant players are required. Thus, while VAs have advantages, their usefulness may be limited in this process (e.g. complex set-top boxes). Still, they should not be excluded as a possible tool.
- **(CECED)**: Legislation is preferred over VA in order to create level playing fields (VA are useful where markets are not fragmented). ;
- **(Orgalime)**: VAs pose a dilemma for stakeholders in relation to the process. Should they invest resources in promoting the VA or focus on the preparatory studies for implementing measures?
- **(Swedish agency)**: VA should exist as a possibility to help with covering products
- **(ECOS)**: It is not clear how market surveillance will be enforced in the case of voluntary agreements.

### **On the appropriateness of the product based approach of implementing measures**

- **(UNITED TECHNOLOGIES)** The requirements are not always appropriate and a systems or performance-based approach would be preferable. This is illustrated by the situation of fans integrated in some products (ovens) where they do not need to work with maximum efficiency. The more we move out of standard consumer products the more problematic and complicated will be the process and possibly not appropriate.
- **(CECED)**: There is still merit on focusing on specific products.
- **(Orgalime)** The definition of the products scope is in some cases too broad and this may affect the development of implementing measures. This is not a problem for the general framework of the Directive.

### 3. Market surveillance and implementation of regulation

CSES presented the initial findings of the study in relation to market surveillance and enforcement of the regulation and the role of standards. It was followed by presentations by CECED and an open discussion. The main points made were:

- **(CECED):** There is a general impression that market surveillance is not working as it should in many Member States. The lack of enforcement undermines the Internal Market and leads to competition on price rather than quality of products.

There is a greater need for setting measurable criteria in requirements that can be easily enforced, avoiding ambiguity in the requirements. While vertical requirements facilitate implementation and enforcement, horizontal ones might leave some grey zones. Guidance documents can be a good tool but it is better to have a sufficient detail in legislative requirements. Maintain tight alignment between Ecodesign requirements and standardization. Transitory measurements are helpful but need better standards in the same time.

There are concerns on the qualification of some laboratories and the resources dedicated by Member States. It would be useful if there were one database used by Member States for reporting of activities, such as it is the case in area of safety.

Tolerances in testing (at 15%) are thought to be too large by a number of contributors, undermining the whole approach.

- **(CLASP)** Certain level of information on market surveillance is available through the Standards Appliance Programme and could be used for the purposes of the study.
- **(United Technologies)** Stronger market surveillance is necessary. In the US the Department of Energy can remove products from the market. The severity encourages compliance and is resource efficient. In Europe the penalties are weak and the money could be used differently than policing the market.
- **(Danish Energy Agency):** From a Member States perspective there are budget constraint issues with enforcing compliance with the regulations. There is a need for better cooperation and support from the Commission to make compliance effective in Member States. The informal ADCO Group (market authorities) meets twice a year but often the information they produce is not precise. The Commission should ensure that precise advice is provided.

Furthermore, the impact assessment for the Implementing measure should also take into consideration the costs of market surveillance for the Member States; this assessment should be done before you pass the legislation

In relation to measure tolerances there are differences among Member States for the same product. If the measuring tolerances are high, market surveillance could be obsolete. The Commission could lower measuring tolerances.

- **(Dutch Energy Ministry):** Market Surveillance remains very fragmented. There are legal restrictions among EU countries and it is difficult to chase manufacturers in another MS court. Furthermore, penalties for non-compliance are weak or meaningless. They should be made stronger. Market surveillance is also important for the development of green markets and to ensure confidence in these markets.

- **(Swedish Energy Agency):** While market surveillance is a Member State competence there are certain areas where the Commission should be more involved. The ADCO group currently in operation is not a strong enough body. The Commission should try to formalise cooperation and also information sharing. The development of information sharing infrastructure (e.g. databases) should help to better identify products. Furthermore, there are initiatives, such as the one led by the UK to develop projects that will support an exchange of good practice.
- **(COMMISSION):** There are indeed legal differences between Member States, which should be addressed. However, there has been progress in terms of compliance over the last 15 years. The Regulation (765/2008/EC) has increased the competencies of the Commission and established a dedicated budget. There is a database being developed for the health and safety area that could be extended further to the Ecodesign products.
- **(UNITED TECHNOLOGIES):** In the US, industry plays a significant part in enforcement by being able to challenge the conformity of competitors' products. This system works well.
- There is a problem of effective communication of the Ecodesign Directive with the general public and journalists in particular. The approach being taken should be explained and how decisions had been arrived at.

#### 4. Extension of the Ecodesign Directive:

CSES presented the proposed methodology of the study in relation to a possible extension and an initial list of products that will be considered (see presentation). It was followed by presentations by the Joint Research Centre- Institute for Environment and Sustainability, the European Automobile Manufacturers Association (ACEA) and the European Environment Bureau (EEB) (see presentations).

During the open discussion the following points/comments were made:

- **(EEB):** There are a number of constraints (legal, feasibility, resources, priority) for the extension to cover non-Energy related products. In contrast it is much easier to extend in terms of environmental parameters covered (see also presentation)
- **(ACEA)** In the automotive vehicles sector there has been a long history and evolution of Design for the environment. Most of the environmental impacts for vehicles come during the use phase and this is already well covered by other legislation. (see also presentation)
- **(Danish energy agency)** There is a requirement in the existing Directive that any consideration of an extension has to be based on a proper assessment of the current Directive. This should be respected in the study and it should not be assumed that an extension should take place.
- **(ECOS)** There is some concern that an extension could disrupt current efforts, which are focused on areas of greatest environmental impact. Rather than extending the current Directive, perhaps a new legislative basis could better address issues such as the need to cover systems, which are more likely to be of concern in markets covered by any extension.
- **(Austrian Chamber of Commerce):** It is probably not a good idea to expand the Directive when there is so much work to do under the current legislation.

- **(Bayer)** It might be appropriate to re-arrange the categories to be considered for case studies. Consumer products should be split into more than one group e.g. products that are durable (mattresses) and others that are consumables (cleaning products).

There are no implementing measures for energy related products so there is no evidence as yet to move to non-energy related measures. At this stage market surveillance has a limited scope with only 11 implementing measures and it is not functioning. There is a need to strengthen market surveillance before the extension of the Ecodesign Directive. Adding more measures would lead to greater non-compliance.

- **(CECED)** Non-energy related products could be covered in other pieces of legislation without going into the Ecodesign Directive. There is a need to improve the implementing measures and these could be expanded to cover other aspects such as how to make products more sustainable.
- **(Dutch Energy Agency)** In the case of non-energy related products one should also consider a possible mix of regulations and voluntary agreements.

Closing session

A request for more information and answers to the survey was made.