

**Evaluation of the Ecodesign Directive  
(2009/125/EC)  
Second stakeholder meeting**

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**Session 2 : Efficiency of Ecodesign  
Directive implementation procedures**



*Centre for*  
**Strategy & Evaluation  
Services**



# Structure of presentation

- Process for determining the products to be covered by the Directive
- The development of Implementing Measures
- MEEuP methodology
- Products and Product Systems
- Standards and conformity assessment
- Market surveillance and enforcement
- Role of Voluntary Agreements
- Costs of Directive to firms, Commission & MS authorities

# Process for determining the products to be covered by the Directive

- Implementing Measures for a number of ErP groups mentioned in Article 16(2) were identified as priorities by the European Climate Change Programme:  
*Heating and water-heating equipment; electric motor systems; lighting in the domestic and tertiary sectors; domestic appliances; office equipment in both the domestic and tertiary sectors; consumer electronics; eating, ventilation and air conditioning systems.*
- The first Working Plan for the period 2009-2011 identified 10 energy using products:  
*Air-conditioning and ventilation systems; Electric and fossil-fuelled heating equipment; Food-preparing equipment; Industrial and laboratory furnaces and ovens; Machine tools; Network, data processing and data storing equipment; Refrigerating and freezing equipment; Sound and imaging equipment; Transformers; Water-using equipment.*
- The products covered in the two lists can vary in their complexity.
- Second Working Plan for the period 2012-2014 is currently being determined.

# Process for determining the products to be covered by the Directive – survey responses and further evidence

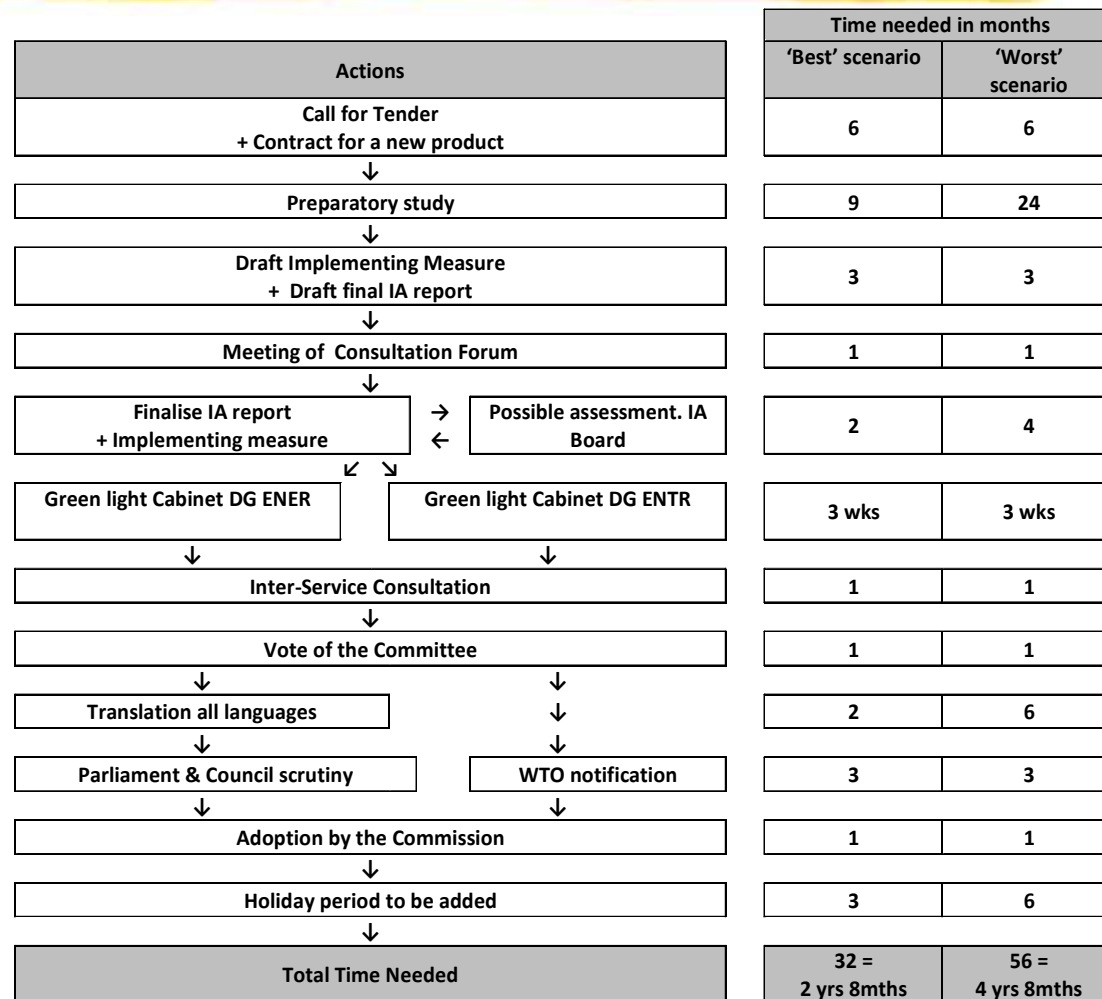
- 52% considered the criteria set by the Directive to be adequate or very adequate; 20% considered them inadequate.
- 57% consider the criteria for the selection of products with significant improvement potential adequate ; less than one in four respondents considering them inappropriate.
- Some argue the focus is only on energy consumption during the use phase, to the neglect of other environmental considerations.
- High level of satisfaction with the initial work conducted, under the Working Plans to identify products with significant environmental impacts.
- Most stakeholders believe that the general framework, its objectives and its processes have been well formulated and operate well.
- Some stakeholders indicate problems of consistency between the requirements of the Directive and those of the WEEE and RoHS Directives.
- The Directive seems well co-ordinated with Energy Labelling Directive and the Eco-label.
- The legislative approach under the Directive is bringing results more quickly than 'ordinary' approaches
- There are problems in the consistency of the implementation of the requirements (and testing) for products where a performance-based approach is

# Process for determining the products to be covered by the Directive - remaining issues and questions

- Are the criteria established by the Directive for identifying products (significant sales and trade volumes, environmental impacts and potential for improvement) appropriate and effective discriminators?
- It has been stated that the relationship between the Ecodesign Directive and the WEEE and RoHS Directives gives rise to problems. Specific examples are needed to analyse this further.
- How do the criteria operate in the case of more complex products or systems (e.g. motors, boilers, ventilation systems)? What is the experience from the Working Plan and the preparatory studies? Are there any specific difficulties? How can they be addressed?
- Have the procedures for establishing the Commission's Working Plans and the conduct of studies operated satisfactorily?

# Development of implementing measures

- 9 products from the initial list still in consultation phase; preparatory study completed but no working document published.
- For one product (complex set-top boxes) a voluntary agreement has been accepted.
- Best scenario for development of an IM : 2 years and 8 months; Worst scenario : 4 years and 8 months.
- Main bottle-necks identified:
  - complexity of a specific product category
  - availability of data for preparatory study;
  - presence of relevant standards;
  - lengthy negotiations;
  - structure of the product market;
  - limited human resources dedicated by the Commission Services



# Development of Implementing Measures

## Working Plan

- Should give clear signals to manufacturers and to the market.
- If more extensively researched, there would be less need for subsequent discussion and major changes in the provisions.
- The Working Plan could highlight the in-depth study areas required in the preparatory studies for analysing non-energy impacts.
- Clear priorities and timelines missing – necessary to provide more certainty and enable better planning for all stakeholders. Looming deadlines would also concentrate minds and help to speed up decisions in difficult areas.
- Currently, manufacturers cannot assess from the beginning which specific products will be included and how they are affected.

## Preparatory Studies

- Lack of financial and human resources and of detailed technical expertise to follow-up and carry out the studies are real challenges that hamper the delivery of robust studies.
- There should be a more rigorous check that the selection criteria relate to the specific products considered in the Preparatory Studies, as well as the product groups considered in the Working Plan.
- Larger studies should be organised or groups of studies, involving experts that are really familiar with each of the products under consideration.

# Development of Implementing Measures

## Consultation Forum

- All sides generally welcome the opportunity presented by the Consultation Forum to debate proposals.
- There has not been a Call for Expressions of Interest relating to Ecodesign Consultation Forum membership since 2006 (lack of transparency).
- Issues raised:
  - Focus on the content of Implementing Measures and not consider questions such as whether a Regulation is necessary at all.
  - In the case of electric motors, established voluntary actions were ignored.
  - Usually very little time to react when the final proposal is presented.
  - Boiler working papers contained proposals regarding product bundling not covered in the preparatory study.

## Regulatory Committee & Final Provisions

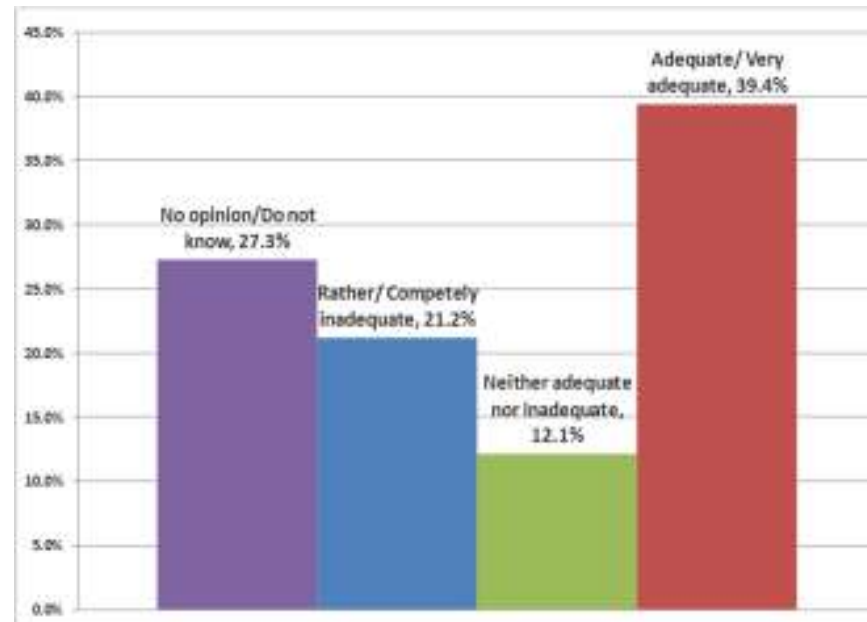
- The way the impact assessment is conducted is not transparent.
- Impact assessments should feature much earlier in the process and accompany each stage. Impacts on consumers, industry, the environment, international trade, etc. should be a feature of each part of the analysis.
- In the case of fans, the Implementing Measures cover products and applications that were not included in the preparatory study.
- There was also an appeal for better information provision. It should be possible to bring all the various activities and web sites together in a single Ecodesign portal.

# Development of implementing measures

## MEEuP methodology

- The overall picture is that the MEEuP has performed well.
- Main criticism: it cannot adequately handle other environmental aspects than energy and it puts greater weight on the use phase but generally recognised that energy use is the key environmental aspect.
- Detailed suggestions on particular elements also made
- Despite deviations from a more thorough LCA approach, the MEEuP is considered practical; no evidence provided that the use of the MEEuP has led to any missed opportunities in relation to key environmental impacts.
- A review of the methodology is currently on-going to fit energy-related products.

### Adequacy of the MEEuP for the identification and coverage of significant environmental parameters - % of survey respondents stating



# Development of implementing measures

## Products and Product Systems

- For some products (fans, motors, construction products) stakeholders have suggested that it is more appropriate to set requirements for systems rather than the products specifically.
- Not many suggestions for a potential resolution.
- Reliance on the Energy Performance in Buildings Directive has been suggested for construction materials, but also remarks about problems with this approach arising from differences in implementation across the EU.
- Conclusions arising from the work on the revision of the MEEuP methodology are going to be an important contribution.

# Development of implementing measures – remaining issues and questions

- What is the nature of the assertion that the Ecodesign Directive does not take adequate account of broader environmental considerations?
- Could the Directive better accommodate these considerations ? Should this be a priority?
- Should Implementing Measures make more systematic use of generic Ecodesign requirements (Annex I of the Directive)?
- Would it be possible to specify priorities in the Working Plan and a time line for the period from preparatory study to adoption of a Regulation?
- In which cases has the time taken from preliminary study to Regulation led to inappropriate or non-ambitious provisions?
- Is it the case that greater effort at the time of the Working Plan and Preparatory Studies could save time and resources subsequently?

# Development of implementing measures – remaining issues and questions

- Would the development of standards prior or in parallel to the preparatory studies help expedite and/or improve the process?
- Are the detailed suggestions for developments in the conduct of preparatory studies and the MEEuP methodology acceptable and useful?
- Would it be beneficial to centralise the preparatory work for Implementing Measures in a single entity such as a new executive Agency or the Joint Research Centre?
- How should the composition of the Consultation Forum be determined?
- What is the best solution for products that are part of systems?

# Implementation of the Directive on the ground

## Standards and conformity assessment

- Problems arising from ambiguities in relation to some requirements in IMs, especially when it is not possible to refer to an existing standard.
- Horizontal requirements are seen by some industry representatives as a particular problem.
- Important gaps in most categories of products ; standards development is quite slow.
- Transitional arrangements put forward on a number of occasions have been helpful but not ideal and cannot replace standards.
- In relation to conformity assessment:
  - Some Member States do not have accredited laboratories for the testing procedures and so the cost of testing for some firms can be very high.
  - There are doubts about the qualifications of some designated laboratories
  - There is a concern about the costs of testing. Member States that cover the costs of testing believe that it is the determining factor for an effective market surveillance system
  - A minority of industry representatives claims that authorities in certain countries request extensive testing even if not necessary – it represents an additional cost.
  - Tolerances allowed in testing (at 15%) are thought to be too large by a number of contributors
  - There should be specific requirements to cover distributors and importers in the Directive along with procedures that can make them more easily identifiable.

# Implementation of the Directive on the ground

## Conformity assessment and role of standards – remaining issues and questions

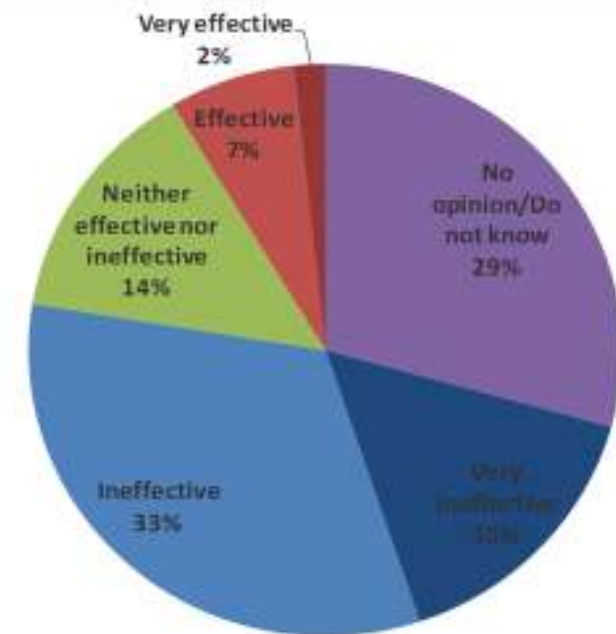
- What is the evidence to support concerns about the qualifications of some designated laboratories?
- What are the main gaps in terms of the development of standards (test and measurement standards, performance standards, horizontal standards)? Which ones are the most important?
- Are there specific instances where the absence of the required standards is causing particular problems?
- At which point are concerns about tolerances allowed in testing best tackled?

# Implementation of the Directive on the ground

## Market surveillance and enforcement of the Directive

- Many believe there is a compliance problem - anecdotal evidence suggests that there are non-compliant goods on the market, especially as imports from outside of the EU.
- The problem is partially one of communication. Firms can still be unaware of what is required, especially if they are not members of an industry association.
- Studies have focused on labelling, but the work is indicative of a shortfall in compliance - the levels of non-compliance are significant enough to raise serious concerns about enforcement.
- More could be done to improve surveillance and enforcement, without necessarily involving significant additional expenditure : registration, sharing investigation results, establishing information requirements and penalties for non-compliance, engagement of industry and consumers and facilitating compliance.

Assessment of effectiveness of market surveillance by Member State authorities across the EU



# Implementation of the Directive on the ground

## Market surveillance and enforcement of the Directive

### Remaining issues and questions:

- Is there further evidence to support or contradict the perception that there is a significant degree of non-compliance in most markets?
- Do other Member States have information available on surveillance tests conducted?
- Is the estimate of resources dedicated by the Member States to market surveillance and enforcement broadly correct?
- Would registration of products be a good idea?
- Are surveillance authorities applying different approaches to confirming compliance, as is claimed? Does this represent a barrier to the Internal Market?
- Is it the case that penalties for non-compliance are ‘weak or meaningless’?

# Implementation of the Directive on the ground

## Market surveillance and enforcement of the Directive

### Remaining issues and questions:

- Are there other ways that Member State authorities could co-operate with each other to improve the effectiveness of market surveillance and enforcement?
- Could there be more scope for industry, consumers and other groups to raise concerns about compliance?
- Would greater use of naming and shaming be appropriate and effective?
- Could surveillance and enforcement issues have a higher profile in the Consultation Forum?
- Are the estimates of the costs of enforcement for Member States in the right order? Is there any information on the costs of enforcing the legislation in identified cases of non-compliance?

# Implementation of the Directive on the ground

## Role of Voluntary Agreements (VAs)

- No experience of the implementation of VAs; four products categories covered: complex set top boxes (CSTBs), imaging equipment, machine tools and medical imaging equipment are in different stages of the process.
- Stakeholders' views on the adequacy of VAs differ : 54% out of 61 respondents considered them as 'adequate/very adequate' ; 38% consider them 'inadequate'
- Main issue raised is that that VAs tend not to be ambitious enough in relation to the business as usual scenario and cannot bring the same results as IMs can
- Criticisms from Member States and NGOs on the transparency of the procedures for initiating and establishing the VAs ; questions on the monitoring of compliance from the side of industry.
- Industry representatives: there is in general a more positive attitude towards VAs because of the flexibility that they provide in comparison with IMs
- Concerns among all stakeholders on the capacity to reach agreements and, even more, to enforce them in a way that will ensure fair competition and avoid free-riders
- Potential benefit: industry monitoring providing much more up-to-date information than with IMs

# Implementation of the Directive on the ground

## Costs of compliance for enterprises

- Compliance with the Directive and its requirements gives rise to costs for enterprises.
- Costs arise from the need for investment in technology and the redesigning of production processes.
- In addition to production costs, the implementation of the Directive leads to administrative costs for firms and there are costs from participating in the implementation processes
- The survey responses have provided rather limited information concerning the specific nature and extent of actual costs incurred.
- Estimates of costs vary widely.

## The suitability of the procedures for SMEs

- Costs of compliance can be more significant for SMEs in that they represent a much higher proportion of turnover.
- More SMEs are becoming involved as the programme of the Working Plan moves into markets where they have a larger presence.
- SMEs find it difficult to participate in the implementation procedures

# Implementation of the Directive on the ground

## Costs of compliance for enterprises- remaining issues and questions

- What are the nature and the size of the different costs that arise in the implementation of the Directive on the ground?
- Are there differences among the different products?

# Implementation of the Directive on the ground

## Overall cost and efficiency considerations

- Systematic analysis of costs is not one of the primary objectives of the evaluation.
- Provisional estimates of the cost to the Commission over the period up to current year are € 24.6 million, including initial adoption.
- The estimated costs to the Member States for 2006-2011 are € 86.6 million - an average of just under € 3.2 million per Member State. The total cost per year to both Commission and Member States – on average over the five year period - is around € 19 million.
- Cost savings resulting from the Directive are expected to reach a total of €127 billion in 2020, €90 billion at 2005 price levels. (Ökopol et al.,2010)
- Anticipated energy and cost savings arising from the Directive are of a different order from the costs involved.

# Implementation of the Directive on the ground

## Summary of overall cost and efficiency considerations - remaining issues and questions

- Have the main elements in the costs arising for all stakeholder groups been correctly identified?
- Indications of the costs to industry of the implementation of the Directive have so far been sketchy and even contradictory. More and more detailed information would be very welcome.
- Similarly information on the benefits to consumers and firms, including details of innovatory developments would be helpful.
- Are there any ways not mentioned that the costs of implementing the Directive could be reduced or tangible benefits enhanced ?