

EUROPEAN PARLIAMENT

2004



2009

Committee on the Environment, Public Health and Food Safety

2008/0151(COD)

18.12.2008

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DRAFT REPORT

on the proposal for a directive of the European Parliament and of the Council establishing a framework for the setting of ecodesign requirements for energy related products (recast)
(COM(2008)0399 – C6-0277/2008 – 2008/0151(COD))

Committee on the Environment, Public Health and Food Safety

Rapporteur: Magor Imre Csibi

(Recast – Rule 80a of the Rules of Procedure)

Symbols for procedures

- * Consultation procedure
majority of the votes cast
- **I Cooperation procedure (first reading)
majority of the votes cast
- **II Cooperation procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- *** Assent procedure
*majority of Parliament's component Members except in cases
covered by Articles 105, 107, 161 and 300 of the EC Treaty and
Article 7 of the EU Treaty*
- ***I Codecision procedure (first reading)
majority of the votes cast
- ***II Codecision procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- ***III Codecision procedure (third reading)
majority of the votes cast, to approve the joint text

(The type of procedure depends on the legal basis proposed by the Commission.)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. In the case of amending acts, passages in an existing provision that the Commission has left unchanged, but that Parliament wishes to amend, are highlighted in **bold**. Any deletions that Parliament wishes to make in passages of this kind are indicated thus: [...]. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). Suggested corrections of this kind are subject to the agreement of the departments concerned.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a directive of the European Parliament and of the Council establishing a framework for the setting of ecodesign requirements for energy related products (recast)

(COM(2008)0399 – C6-0277/2008 – 2008/0151(COD))

(Codecision procedure – recast)

The European Parliament,

- having regard to the Commission proposal to the European Parliament and the Council (COM(2008)0151),
 - having regard to Article 251(2) and Article 95 of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0277/2008),
 - having regard to the Interinstitutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts¹,
 - having regard to the letter of 9 October 2008 from the Committee on Legal Affairs to the Committee on the Environment, Public Health and Food Safety in accordance with Rule 80a(3) of its Rules of Procedure,
 - having regard to Rules 80a and 51 of its Rules of Procedure,
 - having regard to the report of the Committee on the Environment, Public Health and Food Safety and the opinion of the Committee on Industry, Research and Energy (A6-0000/2008),
- A. whereas, according to the Consultative Working Party of the Legal Services of the European Parliament, the Council and the Commission, the proposal in question does not include any substantive amendments other than those identified as such in the proposal and whereas, as regards the codification of the unchanged provisions of the earlier acts together with those amendments, the proposal contains a straightforward codification of the existing texts, without any change in their substance,
1. Approves the Commission proposal as adapted to the recommendations of the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission and as amended below;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council and Commission.

¹ OJ C 77, 28.3.2002, p. 1.

Amendment 1

Proposal for a directive Title

Text proposed by the Commission

Proposal for a
DIRECTIVE OF THE EUROPEAN
PARLIAMENT AND OF THE COUNCIL
establishing a framework for the setting of
ecodesign requirements for **energy related**
products

Amendment

Proposal for a
DIRECTIVE OF THE EUROPEAN
PARLIAMENT AND OF THE COUNCIL
establishing a framework for the setting of
ecodesign requirements for products

*Throughout the whole proposal and
starting with the title, the words "energy
related product(s)" shall be replaced by the
word "product(s)".*

Or. en

Justification

A limited extension of the scope to energy related products will not allow achieving the full potential of cost efficient improvements of environmental impacts of products as only few new products groups would be added. Besides, the directive anyhow has its criteria for the selection of the products that will be finally addressed by implementing measures, including impact assessments etc. Therefore it is not justified to add a relatively arbitrary pre-assessment. Extending the scope beyond energy related products would provide more flexibility to prioritise products that have a significant impact on the environment and a high potential to be made more environmentally friendly.

Amendment 2

Proposal for a directive Recital 2

Text proposed by the Commission

(2) The disparities between the laws or administrative measures adopted by the Member States in relation to the ecodesign of **energy related** products can create barriers to trade and distort competition in

Amendment

(2) The disparities between the laws or administrative measures adopted by the Member States in relation to the ecodesign of products can create barriers to trade and distort competition in the Community and

the Community and may thus have a direct impact on the establishment and functioning of the internal market. The harmonisation of national laws is the only means to prevent such barriers to trade and unfair competition. The extension of the scope to all *energy related* products ensures that ecodesign requirements for all significant *energy related products* can be harmonised at Community level.

may thus have a direct impact on the establishment and functioning of the internal market. The harmonisation of national laws is the only means to prevent such barriers to trade and unfair competition. The extension of the scope to all products ensures that ecodesign requirements for all *products having a significant environmental impact and presenting a significant potential for improvement of their environmental impact* can be harmonised at Community level.

Or. en

Justification

Necessary adaptation to the extension of the scope to all products in line with amendment 1.

Amendment 3

Proposal for a directive

Recital 10

Text proposed by the Commission

(10) A Member State deeming it necessary to maintain national provisions on grounds of major needs relating to the protection of the environment, or to introduce new ones based on new scientific evidence relating to the protection of the environment on grounds of a problem specific to that Member State arising after the adoption of the applicable implementing measure, may do so following the conditions laid down in Article 95(4), (5) and (6) of the Treaty, that provides for a prior notification to and approval from the Commission.

Amendment

(10) A Member State deeming it necessary to maintain national provisions on grounds of major needs relating to the protection of the environment, or to introduce new ones based on new scientific evidence relating to the protection of the environment on grounds of a problem specific to that Member State arising after the adoption of the applicable implementing measure, may do so following the conditions laid down in Article 95(4), (5) and (6) of the Treaty, that provides for a prior notification to and approval from the Commission, ***provided that any such national provisions do not operate against the functioning of the internal market.***

Or. en

Justification

The maintenance of national provisions or the introduction of new ones shall not interfere with the functioning of the internal market.

Amendment 4

Proposal for a directive

Recital 21

Text proposed by the Commission

(21) This Directive should also encourage the integration of ecodesign in small and medium-sized enterprises (SMEs) and very small firms. Such integration could be facilitated by wide availability of and easy access to information relating to the sustainability of their products.

Amendment

(21) This Directive should also encourage the integration of ecodesign in small and medium-sized enterprises (SMEs) and very small firms. Such integration could be facilitated by wide availability of and easy access to information relating to the sustainability of their products.

Furthermore the Commission should ensure adequate financial support to representative European SME organisations in order to guarantee SMEs and very small firms' effective participation in the Consultation Forum referred to in Article 18.

Or. en

Justification

SMEs and very small firms generally do not have the time, the financial means and the language skills to contribute directly to the works of the Consultation Forum. Their representation should therefore be entrusted to representative European SME organisations, which should be financially supported by the Commission in performing this task.

Amendment 5

Proposal for a directive

Recital 38

Text proposed by the Commission

(38) The Commission should, on the basis

Amendment

(38) The Commission should, on the basis

of the experience from applying the Directive, review *its operation and effectiveness and assess the appropriateness of extending its scope beyond energy related products*. Within the review the Commission should consult Member States' representatives as well as concerned interested parties.

of the experience from applying the Directive, review *the effectiveness of this Directive and of its implementing measures, as well as of the methods supporting the preparation of implementing measures*. Within the review the Commission should consult Member States' representatives as well as concerned interested parties.

Or. en

Justification

The extension of the scope to all products will lead to more in depth-consideration of other environmental parameters than energy efficiency. Therefore a review of the methods for the preparation of the implementing measures is necessary. A multicriteria method is also in line with the lifecycle approach promoted by the Action Plan for sustainable consumption, production and industry. Corresponding recital to article 21 on the review.

Amendment 6

Proposal for a directive Article 2 - paragraph 1

Text proposed by the Commission

1. ***'Energy related product', hereinafter referred to as 'product', means any good having an impact on energy consumption during use*** which is placed on the market and/or put into service in the European Union, ***including parts intended to be incorporated into energy related products covered by this Directive which are placed on the market and/or put into service as individual parts for end-users*** and of which the environmental performance can be assessed independently;

Amendment

1. ***'Product'*** means any good which is placed on the market and/or put into service in the European Union and of which the environmental performance can be assessed independently;

Or. en

Justification

Necessary adaptation to the extension of the scope to all products in line with amendment 1.

Amendment 7

Proposal for a directive Article 16 - paragraph 1

Text proposed by the Commission

1. In accordance with the criteria set out in Article 15 and having consulted the Consultation Forum referred to in Article 18, the Commission shall ***not later than 6 July 2007*** establish a working plan which shall be made publicly available.

The working plan shall set out for the following three years an indicative list of product groups which will be considered as priorities for the adoption of implementing measures.

The working plan shall be amended periodically by the Commission after consultation with the Consultation Forum.

Amendment

1. In accordance with the criteria set out in Article 15 and having consulted the Consultation Forum referred to in Article 18, the Commission shall establish a working plan which shall be made publicly available.

The working plan shall set out for the following three years an indicative list of product groups which will be considered as priorities for the adoption of implementing measures.

The working plan shall be amended periodically ***and at least every three years*** by the Commission after consultation with the Consultation Forum.

Or. en

Justification

The date in the first sentence has become obsolete and should therefore be deleted. In order however, to have some kind of reference, a minimum rhythm of three years is suggested for the Commission to come up with a new working plan in order to make sure that there is continuous improvement and planning certainty for industry.

Amendment 8

Proposal for a directive Article 21

Text proposed by the Commission

Not later than 2012 the Commission shall

Amendment

Not later than 2012 the Commission shall

review *the appropriateness of extending the scope of the Directive to non energy related products, the effectiveness of this Directive and of its implementing measures*, the threshold for implementing measures, market surveillance mechanisms and any relevant self-regulation stimulated, after consultation of the Consultation Forum referred to in Article 18, and, as appropriate, present proposals to the European Parliament and the Council for amending this Directive.

review *the effectiveness of this Directive and of its implementing measures, the effectiveness of the methods supporting the preparation of implementing measures in covering adequately the environmental impacts of products throughout their whole life-cycle*, the threshold for implementing measures, market surveillance mechanisms and any relevant self-regulation stimulated, after consultation of the Consultation Forum referred to in Article 18, and, as appropriate, present proposals to the European Parliament and the Council for amending this Directive.

Or. en

Justification

The extension of the scope to all products will lead to more in depth-consideration of other environmental parameters than energy efficiency. Therefore, a review of the methods for the preparation of the implementing measures is necessary in order to address not only energy efficiency parameters but the whole life cycle of a product. A multicriteria method is also in line with the lifecycle approach promoted by the Action Plan for sustainable consumption, production and industry.

ANNEX: OPINION OF THE CONSULTATIVE WORKING PARTY OF THE LEGAL SERVICES OF THE EUROPEAN PARLIAMENT, THE COUNCIL AND THE COMMISSION

COM(2008)0151 of – 2008/0151(COD)



GROUPE CONSULTATIF
DES SERVICES JURIDIQUES

Brussels, 6 September 2008

OPINION

**FOR THE ATTENTION OF THE EUROPEAN PARLIAMENT
THE COUNCIL
THE COMMISSION**

**Proposal for a directive of the European Parliament and of the Council establishing a framework for the setting of ecodesign requirements for energy related products
COM(2008) 399 final of 16.7.2008 - 2008/0151 (COD)**

Having regard to the Inter-institutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts, and in particular to point 9 thereof, the Consultative Working Party consisting of the respective legal services of the European Parliament, the Council and the Commission met on 24 July 2008 for the purpose of examining, among others, the aforementioned proposal submitted by the Commission.

At that meeting¹, an examination of the proposal for a directive of the European Parliament and of the Council recasting Directive 2005/32/EC of the European Parliament and of the Council of 6 July 2005 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 resulted in the Consultative

¹ The Consultative Working Party had at its disposal the English, French and German language versions of the proposal and worked on the basis of the English version, being the master-copy language version of the text under discussion.

Working Party's establishing, by common accord, that in Article 20 the replacing of the word "penalties" with the word "rules" and the adding of a final sentence (which reads "*The Member States shall notify those provisions to the Commission by the date specified in Article 23(1) at the latest and shall notify it without delay of any subsequent amendment affecting them*") should have been identified by using the grey shaded type generally used in connection with substantive changes.

In consequence, examination of the proposal has enabled the Consultative Working Party to conclude, without dissent, that the proposal does not comprise any substantive amendments other than those identified as such therein or in the present opinion. The Working Party also concluded, as regards the codification of the unchanged provisions of the earlier act with those substantive amendments, that the proposal contains a straightforward codification of the existing text, without any change in its substance.

C. PENNERA
Jurisconsult

J.-C. PIRIS
Jurisconsult

C.-F.DURAND
actg. Director General

EXPLANATORY STATEMENT

"Our current patterns of consumption and production have significant environmental impacts, including greenhouse gases, pollution and the depletion of natural resources. Much can be done to make the way we consume and produce in Europe more sustainable, without additional costs for companies and households, and can bring benefits." (Quote from the European Commission on its Action Plan for sustainable consumption, production and industry which includes among others eco-design requirements for more products).

Framework Directive 2005/32/EC of the European Parliament and of the Council of 6 July 2005 establishes a framework for the setting of eco-design requirements for energy-using products, hereafter referred to as the "Eco-design Directive". The aim of the proposed recast of the Eco-design Directive is to incorporate the amending Directive 2008/28/EC¹ and to extend its scope to allow for the setting of Community eco-design requirements also for all energy related products. Such eco-design requirements are binding provisions, set by implementing measures and intended to ensure that products do not have harmful effects on the environment.

Recast

Your rapporteur first of all regrets that the Commission only proposes a very limited recast of the important Eco-design Directive, particularly since there do not seem to be any "substantial changes" to the directive that would require a recast.

Scope

In its recast, the Commission only proposes to extend the scope of the directive to "energy related products", defined as "any product having an impact on energy consumption during use" and commits itself to review in 2012 whether a further extension of scope is appropriate. Your rapporteur, on the other hand, proposes the immediate extension of the scope to all products except for means of transport for persons or goods in order to allow for more flexibility to adapt to future environmental challenges and priorities such as the sustainable use of natural resources. According to the Commission's impact assessment, this option has actually been identified as the best option, whereas the option presented in its proposal has not even been assessed!

The overall aim of Eco-design is to improve the environmental performance of products at least life cycle costs. It is assumed that the majority of products can perform better with less environmental impact at the same or only slightly higher costs for consumers. A limited extension of the scope to energy related products will not allow achieving the full potential of

¹ Directive 2008/28/EC of the European Parliament and of the Council of 11 March 2008 amending Directive 2005/32/EC establishing a framework for the setting of eco-design requirements for energy-using products, as well as Council Directive 92/42/EEC and Directives 96/57/EC and 2000/55/EC, as regards the implementing powers conferred on the Commission (OJ L 81, 20.3.2008, p. 48).

cost efficient improvements of environmental impacts of products as only few new products groups would be added.

It is therefore crucial that the EU legal framework for eco-design allows for a systematic integration of environmentally relevant aspects into the design phase of all products presenting improvement potential.

An extension of the scope of the eco-design directive will not hamper the ongoing implementation process since the directive is a framework directive and a change in scope would therefore not have a direct impact on the choice of products. It is still up to the Commission to decide under the regulatory comitology procedure which products to address by implementing measures and how to prioritize them. It would not be justified to add a relatively arbitrary pre-assessment, like the extension to energy related products only.

Extending the scope beyond energy related products would provide more flexibility to prioritise products that have a significant impact on the environment and a high potential to be made more environmentally friendly. It would allow for the setting of environmental minimum requirements to a broader range of products thus improving the environmental performance of products and provide consumers with a wider variety of sustainable products.

In times of narrowing natural resources, environmentally friendly and energy efficient products will not only be for the benefit of consumers and the environment, but will also increasingly determine the success and competitiveness of European companies.

Review

Given the suggestion by your rapporteur to extend the scope to all products now, makes the assessment for "appropriateness" for a further extension obsolete. At the same time, there is still a need to review all the mechanisms of the directive. Moreover the methodology of the preparatory studies for implementation measures should be checked. The extension of the scope to all products will lead to more in depth-consideration of other environmental parameters than energy efficiency. Therefore, a review of the methodology for the preparation of the implementing measures is necessary in order to address the whole life cycle of a product which is also in line with the lifecycle approach promoted by the Action Plan for sustainable consumption, production and industry.