

Chapter 17 EuP-directive: Lessons learned from a stakeholder dialogue

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1 Introduction

In July 2005 the so called EuP-directive or Ecodesign-directive (European Union, 2005) has been adopted. A major goal of the directive is to improve energy efficiency of energy using products (EuPs) and thereby contribute to the efforts to reach the European targets for climate protection. The directive, however, not only regards energy aspects but rather aims at an overall reduction of negative environmental impact of the products under consideration. Finally the directive wants to help harmonize the European single market for energy using products.

Following the „New Approach“, the EuP-directive only frames overall targets and describes the process to be followed. The definition of precise requirements for individual product groups is in the responsibility of the EU-Commission under consultation of the EU parliament, the member states, business stakeholders and other interested parties. Although no binding requirements have been approved yet, for a variety of product groups the process of elaboration of such requirements is ongoing and in varying states.

The German consultancy company Ökopol GmbH follows this process actively. On behalf of the German Environmental Agency (UBA) Ökopol established a network of German stakeholders concerned by the EuP-directive. This publication describes the EuP-directive including the stakeholders and bodies involved, the principal processes and the state of the implementation. Observations on the information flow and the stakeholder participation are presented for the activities on EU-level. Furthermore experiences from the exchange within the German EuP network and recommendations for similar networks are given.

2 The EuP-directive

2.1 General approach

Taking into consideration that the design of a product has fundamental impact on the environmental performance of a complex product, the requirements established under the EuP-directive are based upon an analysis of the environmental impact along the entire life cycle of the product. As the first legislation in the context of the integrated product policy (IPP)¹ this life cycle approach goes beyond the directives on „Waste Electrical and Electronic Equipment“ (WEEE) (European Union, 2003a) and „Restriction of the Use of Certain Hazardous Substances“ (RoHS) (European Union, 2003b).

The scope of the EuP-directive covers all products and product groups depending on energy input - electricity and other energy sources like gas or oil - for their intended use. Parts dependent on energy input and intended to be incorporated into an EuP covered by the directive are included as well. Excluded are any means of transport.

Since detailed requirements are not matter of the directive the implementation into national law basically transfers the EuP-directive one-to-one into national law. Nevertheless in the national law authorities in charge have to be defined and the process of market surveillance needs to be clarified.

The deadline for implementing the EuP-directive into national law in the member states was August 2007. Except six countries (Austria, Belgium, Ireland, Great Britain, Slovakia and Sweden) the member states, however, failed to meet this date. In Germany the corresponding law was published in February 2008².

2.2 The process to Implementing Measures

The directive includes criteria for the selection of the product groups to be addressed for the establishment of requirements on the environmental performance. Besides the market volume of minimum 200.000 devices per year (of the entire product group within the European market) the product group's environmental impact and the improvement potential are taken into consideration. The EU-Commission appoints the product groups in the so called working plan under reconciliation with the member states and under involvement of market stakeholders and other interested parties.

In order to allow an immediate start of preparatory work the commission defined a set of 13 product groups (Lot 1-5 and 7-14) and a horizontal issue (Lot 6 on standby and off-mode loss) addressed within a transition working plan without further consultation of other stakeholders³.

In order to create the basis for the development of appropriate requirements the EU-commission mandates preparatory studies. These

¹ Information on IPP on the homepage of the EU-commission: <http://europa.eu.int/comm/environment/ipp/> (11.02.08)

² according to the ministry in charge the publication of the "Energiebetriebene-Produkte-Gesetz (EBPG)" is planned for end of February 2008. At the moment of writing this manuscript the law had not yet been published. <http://www.bmwi.de/BMWi/Navigation/Service/gesetze,did=212540.html> (08.02.2008)

³ EU-Commission, DG TREN (2005): Invitation to Tender No. TREN/D1/40-2005 concerning Preparatory studies on Eco-design Requirements for EuPs (I)

studies have to follow a common structure and methodology elaborated and described in a study finalized in 2005 (Van Holsteijn en Kemna BV for European Commission, 2005). This methodology comprises eight tasks (Figure 1).

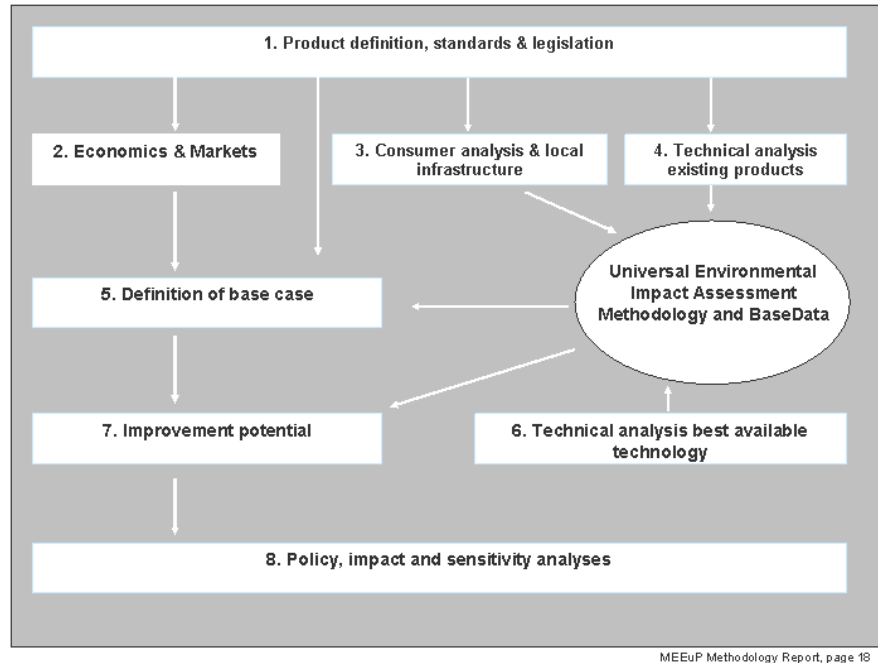


Figure 1: Tasks within the preparatory studies (source: Van Holsteijn en Kemna BV for European Commission (2005))

On the basis of the preparatory studies the EU-commission develops requirements on the environmental performance of the selected products or product groups. The directive theoretically allows for two different regulatory alternatives: mandatory regulations or self regulation by the industries. Mainly due to unsolved problems with “free-riders” up to now no initiative for self regulation is apparent. Rather working documents – which can be considered as outlined Implementing Measures - are being developed.

These working documents are open for stakeholder input. Feedback particularly is possible in the so called Consultation Forum consisting of representatives of the member states and selected stakeholder parties. Based on this precedent process the EU Commission drafts an Implementing Measure that undergoes an impact assessment before being presented for vote to an assembly of EU member states representatives - the regulatory committee. After interservice consultation the European Parliament gets the chance to intervene before the Implementing Measure enters into force. Presumably all these processes steps from working document until (directly) implemented regulation take about 10-12 month.

Although the EuP-directive is open for other administrative forms the EU commission clearly favours as Implementing Measures mandatory requirements in form of regulations. Such regulations will come into force without further implementation into national law.

Once binding Implementing Measures on energy using products are in force the manufacturer (or importer into the EU) has to declare that an

assessment of the EuPs conformity with all the relevant requirements of the applicable implementing measure was carried out. As conformity assessment procedure the manufacturer has the choice between the internal design control (Annex IV of the EuP-directive) and a management system (Annex V). In praxis conformity declaration will be included in the self declaration for the CE marking.

The EuP-directive leaves the responsibility for market surveillance with the member states. In Germany e.g. market surveillance concerning EuP requirements is covered by the “Energiebetriebene-Produkte-Gesetz (EBPG)” and includes a set of penalties reaching from fines to the obligation to recall the product from the market. Enforcement of the market surveillance is further delegated to the “Länder”. This split of responsibility to different regional bodies is seen as one of the challenging aspects from the perspective of a harmonized market.

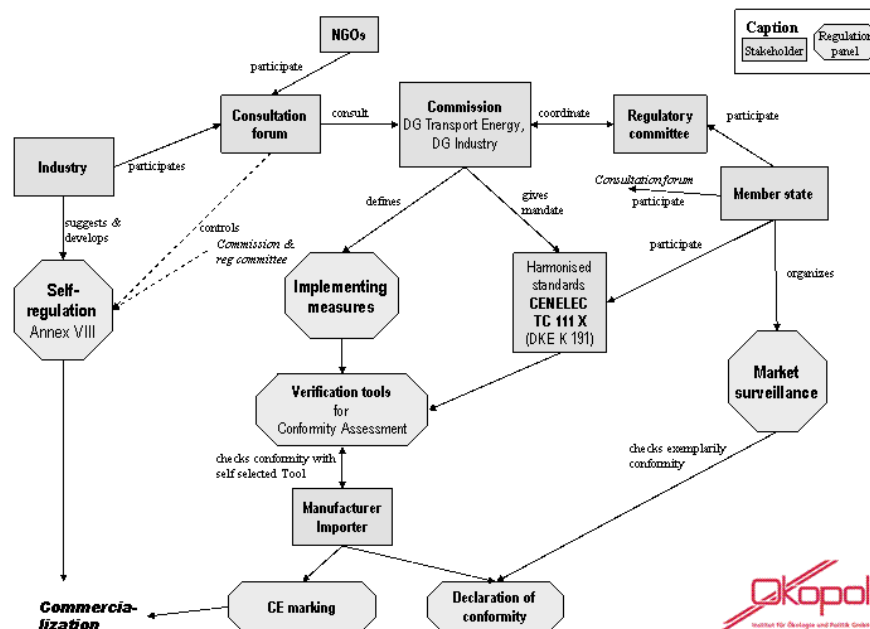


Figure 2: Illustration of the stakeholders and processes involved in the implementation of the EuP-directive

3 Observations at EU-level

Ökopol has actively followed the precedent processes of the implementation of the EuP-directive. This chapter describes the status quo concerning the development of requirements on particular product groups. It gives an appraisal of the flow of information and of the stakeholders involved in the process.

3.1 Status quo

The transition working plan based on article 16 of the EuP-directive covers 14 lots. The associated preparatory studies are finalised or close to finalisation (Lot No 1-14 in Table 1). In autumn 2007 the EU commissioned another five preparatory studies (Lots 15-19). Collecting data and

stakeholder input for these five product groups will last until end of 2008 or even end of 2009 (Table 1).

The work plan for the next three years has not yet been established by the EU-commission. A study (EPTA Ltd for European Commission, 2007), however, based on gathered data and stakeholder input suggest a list of 25 product groups as first and nine product groups of second priority. It is expected that the EU-commission will select priority groups from this suggestion and will soon publish a draft working plan for discussion within the consultation forum.

Table 1: Product groups covered by the EuP process and time schedule⁴ of the EU-commission for product groups covered by ongoing implementation process.

adopted = Implementing Measure finally adopted by commission;
submitted = Implementing Measure submitted for vote in Regulatory committee; (a) = according to tender specifications, study most likely finished by far earlier

Lot	Product group	Website	prep study finished	Implementing measure to be
0	Simple set top boxes	ecostb.org	12/2007	adopted 2008
1	Boilers and combi-boilers	ecoboiler.org	10/2007	submitted 2008/09
2	Water heaters	ecohotwater.org	10/2007	submitted 2008/09
3	Computers and Monitors	ecocomputer.org	10/2007	submitted 2008/09
4	Imagining Equipment	ecoimagining.org	Should have been finished 12/2007	submitted 2008/09
5	Televisions	ecotelevisions.org	8/2007	adopted 2009
6	Standby and off-mode losses	ecostandby.org	10/2007	adopted 2008
7	External power supplies and battery chargers	ecocharger.org	1/2008	adopted 2008
8	Office lighting	eup4light.net	4/2007	adopted 2008
9	Street lighting	eup4light.net	1/2007	adopted 2008
10	Room air conditioning appliances	ecoaircon.eu	02/2008	submitted 2008/09
11	Electric motors	ecomotor.org	Should have been finished 12/2007	submitted 2008/09
12	Commercial refrigerators and freezers	ecofreezercom.org	12/2007	submitted 2008/09
13	Domestic refrigerators and freezers	ecocold-domestic.org	Should have been finished 12/2007	submitted 2008/09
14	Domestic washing machines and dishwashers	ecowet-domestic.org	Should have been finished 12/2007	submitted 2008/09
15	Solid fuel small combustion installations	ecosolidfuel.org	09/2009	No time scheduled
16	Laundry-dryers	ecodryers.org	10/2009	No time scheduled
17	Vacuum Cleaners	ecovacuum.org	11/2008	No time scheduled
18	Complex set top boxes	ecocomplexstb.org	12/2008	No time scheduled
19 (I)	Domestic lighting I (including incandescent)	eup4light.net	10/2009 ^(a)	adopted 2009

⁴ according to the planning of the EU-commission from 28.01.2008

	bulbs)			
19 (II)	Domestic lighting II (reflector lamps & luminaires)	eup4light.net	10/2009 ^(a)	No time scheduled

Six working documents have already been developed by the commission and discussed in the Consultation Forum (Table 2). They mostly, but not always entirely, cover the scope of the respective preparatory studies. According to the time schedule of the EU-commission⁵ five Implementing Measures are planned to be adopted by the Commission in 2008 and two in spring 2009 (Table 1) (European Commission, 2008). Another 13 Implementing Measures are planned to be submitted for vote in the Committee in 2008 and 2009.

Table 2: Working documents proposed by the EU-commission and discussed within the Consultation Forum (CF)

Working document on possible ...	Lot	CF-meeting
... ecodesign requirements for Public Street Lighting	9	22.06.07
... ecodesign requirements for standby and off mode electric power consumption of electrical and electronic household and office equipment	6	19.10.07
... ecodesign requirements for fluorescent lamps without integrated ballast, for ballasts and luminaires used with these lamps, and on the conditions for the indication of suitability of lighting products for office lighting	8	18.12.07
... ecodesign requirements for external power supplies	7	22.2.08
... ecodesign requirements for simple set top boxes	--	22.2.08
... Ecodesign Energy labelling and Installation requirements for Boilers and Water Heaters	1 & 2	29.2.08

3.2 Information flow

As described above implementation of the EuP-directive is based on a thorough stakeholder dialogue. Furthermore decisions made on European level become mandatory without any additional process in the member states. Therefore an efficient information flow is of crucial importance for all stakeholders (i) who wish to influence the addressed issues and levels of ambition and (ii) who need to know about upcoming requirements as soon as possible (e.g. as framework condition for further research and development or sourcing activity by industries).

The EU-commission attaches importance to transparent processes and information flow. Nevertheless this claim and reality diverges for several reasons. The means for communication flow from the commission to stakeholders is via (i) the homepage mainly of DG TREN⁶ and (ii) email to the members of the Consultation Forum. These tools do not assure the information flow needed. The homepage does not always reflect the status quo of the fast processes and is not easy to read for stakeholders that are not familiar with the EuP process. The emails to the members of the Consultation Forum on the other hand only reach a limited number of multipliers. To the authors' knowledge no website exists in English that gives a comprehensive, generally understandable and up-to-date overview of the processes related to the implementation of the EuP-directive.

⁵ from 28.01.2008

⁶ http://ec.europa.eu/energy/demand/legislation/eco_design_en.htm

The contractors of the preparatory studies account for the information flow concerning the consultation on the individual product groups. This also is done by Lot-specific websites and by emails to registered stakeholder. As for the commission some contractors obviously have problems to keep their websites updated in the pace the process progresses. Some contractors, moreover, raised the hurdle to information by restricting access to their website to registered stakeholder.

The most important obstacle, however, is in the nature of the process. The process and the related results and documents are complex, in English only and mostly highly technical. Therefore it is difficult and time-consuming for individual stakeholders, e.g. SMEs or regional interest groups, to filter the respective relevant information and to appraise the findings and the options of input.

3.3 Stakeholders involved

Developing widely accepted, ambitious and at the same time pragmatic and realistic requirements depends on a balanced involvement of stakeholders. Stakeholder involvement is welcome while (i) selecting the product groups addressed (working plan), (ii) during the data collection phase in the preparatory studies and (iii) in form of positions to the outlined working documents of mandatory requirements. Positions and opinions can be expressed in form of written comments and by attending stakeholder workshops. Input is desired particularly from representatives of the member states, industry, SMEs, handcraft, trade unions, trader, importers and non-industrial NGOs.

The feedback on the working documents dealt with in the Consultation Forum⁷ indicates the missing activity of some stakeholder groups. E.g. concerning the member states the Working document on Street lighting (Lot 9) had been commented in written form only by seven member states (Austria, Belgium, Denmark, Finland, Germany, Netherlands, Sweden), on standby and off-mode (Lot 6) by eight member states (Austria, Belgium, Finland, Germany, Italy, Netherlands, Sweden, United Kingdom) and on Office lighting (Lot 8) by seven member states (Austria, Belgium, Denmark, Germany, Netherlands, Sweden, United Kingdom). Given that 27 member states had the chance to comment the working documents this response reflects the problems the member states have to actively contribute to the process. On the other hand, based on a specific action programme a network of environmental NGOs succeeded to bring in its perspectives to all Working documents mentioned.

Another indicator for stakeholder involvement is the active contribution to the preparatory studies, e.g. in form of attendance in the stakeholder meetings. For the preparatory studies on computer (lot 3), imaging equipment (lot 4), TV (lot 5), standby and off-mode (lot 6) and batteries / external power supplies (lot 7) participants lists exist that allow classification to different stakeholder groups. An analysis shows that industries are by far dominating the stakeholder debates in the preparatory studies whereas other stakeholders like trade unions, non-industrial NGOs and member states authorities are almost lacking (Table 3). In the group "Research and Consultancy" some additional attendees might be included that participate

⁷ At the time of preparing this manuscript the Working documents Lots 1&2, Lot 7 and on simple Set-Top-Boxes had not yet been discussed in the Consultation Forum.

on behalf of companies. Within the industries big companies govern the dialogue, while SMEs and trading companies are not or little represented.

Table 3: stakeholder participation in final stakeholder meetings of the preparatory studies (lots 3, 4, 5, 6 and 7)

Stakeholder group	Lot 3	Lot 4	Lot 5	Lot 6	Lot 7
Business or business association	28	21	30	45	23
Non-industrial NGO			4	2	
Member states authorities	4	3	3	3	1
Research and consultancy	11	3	4	4	6
EU-commission / consortium		5	7	7	8
others					1
Total	43	32	48	61	39

4 German EuP-Network

Considering the given general problems of the EU processes as described above and while heading for a well based and balanced input from national stakeholder groups the German environmental authorities (Ministry for the Environment (BMU) and German Federal Environmental Agency (UBA) initiated already in 2006 an EuP-network Germany. Ökopol took the task to develop the concept and tools and to establish the respective processes for such a network.

One of the core elements is a common information platform including a website⁸ and a newsletter. Feedback received so far articulate that stakeholders highly appreciate the compiling of information on a single website and in an (electronic) newsletter. For some stakeholders it is particularly helpful that information is given in their native language. Ökopol recently extended its online presence by launching a website⁹ in English. Parallel to the homepage in German it facilitates access to information related to the implementation of the EuP-directive.

As a second element the network provides a platform for an intensive exchange on issues of the EuP processes. In workshops, beside specific working documents, topics are discussed that go beyond the scope of individual product groups and / or that interlink EuP with other instruments of product policies. This exchange on national level helps to involve further stakeholder groups and companies and improves the cross-wise understanding of positions between different stakeholders. A further stimulation of input into the European process can be observed. Information flow from the national to the European level and reverse is ensured by a number of persons acting on both levels and involved in the network activities.

Following the new national law implementing the EuP-directive (“Energiebetriebene-Produkte-Gesetz”) the German Federal Institute for Materials Research and Testing (BAM), supported by the German Federal Environmental Agency (UBA), is from now on in charge of coordinating the exchange on a national position of Germany. Therefore the role of the EuP-Network Germany will be re-arranged adjusting to an efficient interaction.

⁸ <http://www.eup-netzwerk.de> (in German)

⁹ <http://www.eup-network.eu>

5 Conclusions

Stakeholder involvement in the EuP processes is not (yet) as broadly grounded and well balanced as desirable. One reason certainly is that the EuP process is complex, fast moving and difficult to follow.

Further efforts should be made by the EU Commission to facilitate an efficient spreading of up-to-date information and to ensure clarity about the right points to give input for stakeholders throughout Europe. On national level information tools are needed that are easy to access and provide targeted information for different players.

Another crucial point is to foster improved exchange between stakeholders involved in the implementation process. Such exchange platforms, however, should aim at enlarging their network to all stakeholder groups affected by the EuP-directive (e.g. trade, handicrafts).

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