



ANNEX – Summary of main points

➤ Legal basis

Article 15 of the Ecodesign Directive (2009/125/EC, hereinafter 'the Directive') states that the priority product groups (i.e. product groups considered priorities for the undertaking of preparatory studies and adoption of implementing measures) should be covered by either a mandatory implementing measure (i.e. the Commission regulation) or a self-regulatory measure (e.g. a voluntary agreement concluded by the industry).

Recital 18 of the Directive encourages the Commission to give priority to a self-regulatory measure over a mandatory measure, if the former is likely to deliver the policy objectives faster or in a less costly manner than the latter.

Annex VIII to the Directive states that a valid self-regulatory initiative should comply with:

- all provisions of the Treaty (in particular internal market and competition rules), international engagements of the EU (including multilateral trade rules) and nine specific criteria: openness of participation, added value, representativeness, quantified and staged objectives, involvement of the civil society, monitoring and reporting, cost-effectiveness of administering a self-regulatory initiative, sustainability, incentive compatibility.

The provisions of the Directive relevant for self-regulatory initiatives are: recitals 18-21, Article 15(1) and Annex VIII.

➤ Role and nature of the Ecodesign voluntary agreements

A self-regulatory measure meeting the conditions stipulated in Annex VIII to the Directive is considered a valid alternative to an Ecodesign mandatory implementing measure. Consequently, as long as the voluntary agreement meets its objectives, the Commission may refrain from adopting an Ecodesign implementing measure. However, if the monitoring and reporting performed under the voluntary agreement, or Member States or stakeholders, indicate distortions in the functioning of a voluntary agreement, the Commission should consider proposing an Ecodesign mandatory regulation.

This position has been confirmed by the Legal Service of the EC¹.

➤ Acknowledgment of Ecodesign voluntary agreements

The special role and status of the Ecodesign self-regulatory measures require that each Ecodesign voluntary agreement proposed by the industry should be assessed against the criteria laid down in Annex VIII to the Directive. If that assessment is positive, it seems

¹ Note of 2 December 2010 (sj.h(2010)988242 – EK/KH/had)

appropriate for that agreement to be formally recognised by the Commission as a valid alternative for an Ecodesign implementing measure.

The most appropriate form for the formal recognition of Ecodesign self-regulatory measures concluded by the industry is a Commission Recommendation (i.e. non-legislative act) published in the OJ of the EU, series C².

This position has been confirmed by the Legal Cell of DG ENER.

➤ **Background information on the voluntary agreement on CSTBs**

The voluntary agreement on complex set top boxes (hereinafter 'CSTBs') will be the first self-regulatory measure proposed by the industry under the Ecodesign Directive to be formally recognised by the Commission. The agreement meets all criteria specified in Annex VIII to the Directive.

- **Entry into force:** the agreement has been effective since 1 July 2010³. It should however be stressed that only on 22 March 2012 did the industry provide the Commission with information about the market coverage (required by point 3 of Annex VIII to the Directive) and thus met the last precondition for the official recognition of the agreement by the Commission.
- **Savings potential:** according to the Impact Assessment, between 2011 and 2020 the voluntary agreement will generate savings of in total 44 TWh corresponding to savings of 6 billion Euros and 21 mln tons avoided CO₂ emissions.
- **Scope:** the voluntary agreement applies to CSTBs defined as stand-alone devices, using an integral or dedicated external power supply, for the reception of digital broadcasting and depending on conditional access to perform their primary function. In non-technical language, CSTBs are receivers for pay TV. The agreement covers all CSTBs regardless of the reception method of digital TV signals (including cable, satellite, Internet Protocols, terrestrial).
- **Signatories:** currently there are twenty five signatories⁴ to the voluntary agreement, including:
 - nine 'service providers' (BskyB⁵, Deutsche Telekom, Liberty Global-UPC, Sky Deutschland, Sky Italia, Telenet, Telenor, Viasat and Virgin Media),
 - eleven 'set top box manufacturers' (ADB, Amino, BskyB, Echostar, Humax, Kaon Media, Pace, Sagemcom, Samsung, Tatung, Technicolor) and
 - six 'software or chipset suppliers' (Intel, Irdeto, Microsoft, NDS Group, Prisa and Texas Instruments).

² Three possible procedures were considered: (i) A Commission Recommendation, (ii) exchange of letters and (iii) a Commission Recommendation plus a (EP/Council) Decision on monitoring.

³ The current version of the agreement (version no. 3) was amended by the industry on 2 September 2011

⁴ The Commission has received copies of 25 signed declarations of participation in the agreement

⁵ BskyB is listed as both 'service provider' and 'set top box manufacturer' but is counted only once.

As required by Annex VIII to the Directive, the voluntary agreement remains open to the participation of other companies. Three 'service providers' (Bouygues Telecom, Kabel Deutschland and Orange Group) and two 'set top box manufacturers' (Cisco and Motorola) have recently expressed their interest in joining the initiative (prospective signatories).

It is estimated that the current signatories to the voluntary agreement account for 77% of the total EU market for CSTBs forecast to be shipped in 2012, which exceeds by 7% the agreed limit⁶. According to the results of a study on market penetration⁷ performed in January 2012 by the industry on the request of the Commission, the EU market will ship in total 23.5 million CSTBs in 2012, of which 18.2 million will be accounted for by signatories to the voluntary agreement and 19.6 million by signatories and prospective signatories⁸.

- **Requirements:** Each signatory to the agreement committed itself that at least 90% of its CSTBs placed on the EU market (regardless of their origin) will comply with the minimum efficiency requirements formulated in TEC (typical energy consumption).

The TEC allowances vary depending on the platforms that are used by the devices and on the additional functionalities they provide.

The table below compares the levels identified by the preparatory study as least lifecycle cost (four last columns) with the levels proposed by the industry (second and third columns) and the base-case/business-as-usual (first column).

⁶ The Directive requires that signatories to the agreement must 'represent a large majority of the relevant economic sector'. In its explanatory document on voluntary agreements concluded under the Ecodesign Directive (EDWB 2010 Doc03), the Commission specified that to consider an agreement as valid, the proven market share must be at least 70%.

⁷ Study HIS Screen Digest from London

⁸ Signatory manufacturers alone ship 16.2 million CSTBs and signatory service providers purchase 8.8 million CSTBs. The overlap of 6.8 million CSTBs is due to the significant volume deals already in place between major service providers and manufacturers which are signatories to the voluntary agreement.

Base case Levels	Industry proposed voluntary agreement		EuP lot 18 (Preparatory Study) final report recommendations				
	Tier 1 July 2010, no APD	Tier 2, July 2013, APD	Tier 1, July 2011 no APD	Tier 1, July 2011, APD optional	Tier 2 July 2012, APD, low- power standby*	Tier 3, January 2014 APD, low- power standby*	
Base Functionality (kWh/year)							
Cable	60,2	45	40	40	32,2	27,6	21,7
Satellite	60,2	45	40	40	32,2	27,6	21,7
IP	60,2	40	35	40	32,2	27,6	21,7
Terrestrial	60,2	40	35	40	32,2	27,6	21,7
Thin-Client/Remote	60,2	40	35	40	32,2	27,6	21,7
Additional Functionalities (kWh/year)							
Additional Tuners	21,9	20	14	20,4	14,1	8,9	8,9
Adv. Video Processing		20	14				
DVR (hard drive)	19,7	20	18	18,5	18,5	7,4	7,4
High Definition (AVP factored in here the case of base case and prep study recommendations)	70,1	20	14	40	32,2	15,9	15,9
Multi-Decode		38	12				
Return path	87,6	60	35	78	78	26	21,3

- **Administrative bodies:** The voluntary agreement establishes two administrative bodies:
 - The **Steering Committee** consists of representatives of the signatories to the agreement, the European Commission, EU Member States, EFTA/EEA countries and NGOs. The Committee manages the agreement. In particular it:
 - assists the Commission in evaluating the effectiveness of the agreement and in assessing whether its objectives are met;
 - discusses current and future developments that may influence energy consumption of CSTBs and discusses future targets;
 - considers and decides on amendments of the agreement.

The Committee is to meet at least twice per year and its meetings are to be open to any person who represents a legitimate stakeholder. The Committee is to seek to achieve agreement by consensus at all times.

- The **Independent Inspector** plays a crucial role in the process of monitoring the application of the agreement. The Inspector will in particular:
 - assess the compliance of individual signatories with the commitments laid out in the agreement on the basis of the data provided by the signatories;
 - draft and submit to the Commission and stakeholders reports on the compliance of the signatories with the agreement;
 - carry out audits of information provided by signatories, on the request of the Commission.

'Ecofys' has been chosen to act as the Inspector for the agreement on CSTBs.

- **Reporting:** Each signatory must provide information to the Independent Inspector specifying the energy consumption of each type of CSBT that it places on the EU market. On the basis of the received data, the Independent Inspector will generate reports that will be distributed, for assessment, to the Commission and other Members of the Steering Committee. Reporting will be done by

signatories on an annual basis in the format specified in the voluntary agreement. A company that has failed to comply with its commitments under the agreement will risk forfeiting its signatory status.

- **Monitoring:** The Commission, in cooperation with Member States and stakeholders, will monitor the application of the agreement and will consider whether it meets its objectives.
 - To properly monitor the progress and results achieved under the agreement, its management has been handed over to the Steering Committee.
 - The monitoring of the agreement will be performed by the Commission mainly on the basis of the annual reports produced by the Independent Inspector⁹.
 - As required by the Directive, the effectiveness of the agreement will be regularly assessed by the Consultation Forum established under Article 18 of the Directive (consisting of the representatives of Member States, the industry and NGOs).
 - Finally, the effectiveness of the agreement will be assessed in the process of reviewing the Ecodesign and Energy Labelling Directives (intended to take place in 2014).

If the monitoring indicates distortions in the functioning of the voluntary agreement, the Commission will consider proposing an Ecodesign mandatory regulation.

- **Revisions:** Functions provided by CSTBs placed on the market are quickly evolving what requires a flexible approach in terms of defining the relevant parameters and establishing applicable requirements. The agreement provides for a procedure that will allow the Steering Committee to quickly change the provisions of the agreement, and in particular to adjust the stringency of the requirements to the situation on the market.

➤ **Preparatory procedure (main steps)**

The agreement:

- was presented to and discussed with stakeholders at the meeting of the Consultation Forum on 12 October 2009;
- was subject to a full Impact Assessment. The Impact Assessment Board gave its favourable opinion on the Impact Assessment on 1 December 2010. The Impact Assessment concluded that the self-regulatory measure was the most suitable of all considered options. The agreement will have a similar to a regulation impact

⁹ The Independent Inspector is about to submit to the Commission and stakeholders its first report (for the first reporting period 1.07.2010-30.06.2012). This will be discussed at the meeting of the Steering Committee on 25 May 2012.

on electricity consumption of CSTBs, but it represents smaller costs for Member States¹⁰ and for the industry and offers higher potential for further improvement;

- does not have to be notified to the World Trade Organisation as it is neither a mandatory 'technical regulation' nor 'conformity assessment procedure';
- will be recognised in the form of a Commission Recommendation (i.e. non-legislative act) and published in the OJ of the UE, Series C.

➤ **Other relevant initiatives on CSTBs**

In 2002, JRC launched a code of conduct on CSTBs (hereinafter 'the code'¹¹). The code is a noticeably separate initiative from the voluntary agreement as it has a different form and status: the code was prepared outside the Ecodesign Directive framework and it does not establish minimum requirements for CSTBs placed on the EU market, but very stringent requirements to seek innovative technology solutions.

DG ENER is not aware of any national regulations or voluntary agreements applicable in the EU Member States. However, we were informed in 2011 that Switzerland was also preparing legislation on the energy efficiency of CSTBs.

¹⁰ For example, Member States will not need to (but could if they wish) carry out market surveillance activities on CSTBs as a compliance with the requirements of the agreement will be checked by the Independent Inspector.

¹¹For more information on the code, consult the following website:

http://re.jrc.ec.europa.eu/energyefficiency/html/standby_initiative_digital%20tv%20services.htm