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COVER NOTE

from: Secretary-General of the European Commission,
signed by Mr Jordi AYET PUIGARNAU, Director

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to: Mr Uwe CORSEPIUS, Secretary-General of the Council of the European
Union

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Subject: Report from the Commission to the European Parliament and the Council
- Review of Directive 2009/125/EC of the European Parliament and of the
Council of 21 October 2009 establishing a framework for the setting of
ecodesign requirements for energy-related products (recast)
= 2012 Review

Delegations will find attached Commission document COM(2012) 765 final.

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Brussels, 17.12.2012
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**REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND
THE COUNCIL**

**Review of Directive 2009/125/EC of the European Parliament and of the Council of 21
October 2009 establishing a framework for the setting of ecodesign requirements for
energy-related products (recast)**

2012 Review

(Text with EEA relevance)

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1. Introduction

Under Article 21 of the Ecodesign Directive, the Commission is required to review, no later than 2012, the effectiveness of the Ecodesign Directive and of its implementing measures and to assess the appropriateness of extending the scope of the Directive to non-energy related products.

2. Effectiveness of the Directive

In 2011, the Commission launched a dedicated study (hereinafter 'the evaluation study') aiming at the review of the effectiveness of (i) the Directive and its implementing measures, (ii) the Ecodesign methodology, (iii) the threshold for implementing measures as described in Article 15 of the Directive, (iv) market surveillance, and (v) self-regulation measures¹.

A separate specific study was completed in order to update the ecodesign methodology, which has resulted in the Methodology for the ecodesign of energy-related products (MEErP)².

The evaluation study concluded that, in general, the Ecodesign Directive is achieving its policy objectives (free movement of goods and environmental protection) and that no revision of the Directive is deemed appropriate at the moment or necessary to increase its effectiveness and that of its implementing measures.

The study has, in particular, pointed out that:

- In principle, the Directive is achieving its policy objectives. Since 2005 the main focus of the implementing measures has been on energy efficiency. The available data illustrate a move towards energy efficiency for all products regulated by the Ecodesign implementing measures³.

¹ For the final report (that was published in March 2012) please see http://cses.co.uk/ecodesign_evaluation

² For new methodology, please see <http://www.meerp.eu/>

³ In three instances (domestic lighting, standby, circulators), there is a direct contribution of Ecodesign requirements to this move. In one instance (TVs), technological change is considered to have played the greatest role. In one instance (external power supplies), data are insufficient to assess the effects of the implementing measure.

- It is too early to correctly evaluate the full effect of the Directive and of the implementing mandatory and self-regulation measures because of the insufficient period of their application. For one out of the twelve ecodesign Regulations adopted at the time of the evaluation, Tier-1 requirements had not yet entered into force and for eight implementing measures, Tier-2 requirements had not yet entered into force. Furthermore, out of two proposed voluntary agreements, none has so far been officially endorsed by the Commission⁴.
- It is considered that the indicative criteria for adopting implementing ecodesign measures, defined in Article 15 of the Ecodesign Directive, remain appropriate.
- Numerous methodological issues have been addressed by the study on the (new) Methodology for the ecodesign of energy-related products (MEErP).

The study has also identified a number of challenges faced at EU and Member States' levels in the application of the Ecodesign Directive and its implementing measures, including:

- Complex and lengthy preparatory procedure;
- Limited data to inform policy decisions (e.g. market trends and technological changes, market data, performance data from market surveillance activities etc.);
- Insufficient coordination of ecodesign measures with other pieces of EU legislation, such as WEEE, RoHS or EPBD Directives;
- Insufficient resources to deal with the increasing amount of regulatory, communication and standardisation work;
- Question on the level of ambition of some requirements, especially in Tier-1;
- Remaining potential to further address non-energy-related issues of energy related products (e.g. material efficiency, recyclability etc.);
- Delays in the elaboration of suitable harmonised standards;
- Insufficient and ineffective market surveillance⁵.

Based on this study the Commission has drawn a number of conclusions on the action to be taken. In particular, the Commission is taking actions which will consequently contribute to improving the application of the Directive and its implementing measures. The most relevant actions would be:

- Delegating the non –regulatory work (notably communication activities) to external bodies), so that Commission resources are assigned to the development and implementation of legally binding acts. The Commission is going to use Europe Direct⁶ to answer public queries on ecodesign, energy labelling and tyre labelling.

⁴ Voluntary agreement on complex set-top boxes is scheduled for recognition still in 2012 while the agreement on imaging equipment will be recognised in 2013

⁵ It is estimated that 10-20% of products covered by implementing measures are non-compliant

⁶ See http://europa.eu/eurodirect/index_en.htm

Furthermore, the Commission together with EACI is establishing a special 'communication helpdesk' that will give support in (i) preparing and running information campaigns on ecodesign and energy labelling and (ii) replying to queries submitted by citizens, stakeholders and other relevant parties.

- Continuing to tap into technical expertise of other EU bodies, including the Joint Research Centre (JRC) and EACI. For instance, the JRC will be more involved in the development of the technical input to new implementing measures and in following the standardisation work for selected product groups as well as to contribute to the development of a more integrated legislative process of different policy instruments (Ecodesign, Energy Labelling, Ecolabel, GPP, WEEE, RoHS, etc.)
- Continuing reinforcing the use of the expertise of stakeholders (Member States, industry and NGOs), in particular in the process of reviewing and revising existing implementing measures⁷.
- Furthermore, a database on energy efficiency and other environmental aspects of products placed on the EU market is also being established.
- Using external experts (including New Approach Consultants) to follow more closely the standardisation work done by the European Standardisation Bodies for the purpose of the ecodesign implementing measures. Furthermore, support to NGOs to allow for their active involvement in the standardisation work.
- Launch of an annual market surveillance data collection exercise and of the Joint Action on Market Surveillance between national authorities under the Intelligent Energy Europe (IEE) Work Programme 2013 to enhance the enforcement of the Ecodesign and Energy labelling legislation. A database on energy efficiency and other environmental aspects of products placed on the EU market is also being established.

3. Extension of the scope of the Directive

Following the provisions of Article 21 of the Directive, the study also assessed the appropriateness of extending the scope of the Directive to non-energy-related products.

Based on the study, the Commission has concluded that, for the moment, there is no need for the extension of the scope of the Ecodesign Directive to non-energy related products.

The study has, in particular, pointed out at:

- The insufficient experience with the current scope of the Directive (extended in the 2009 recast to energy-related products). So far, all implementing measures prepared by the Commission concern energy-using products. The Ecodesign Working Plan for the period 2012-2014 includes the first energy related product groups, such as, for instance, windows and thermal insulation.
- The need to complete, as a first priority, the regulatory work under the 2005 Ecodesign Directive and the first Ecodesign Working Plan 2009-2011. Otherwise,

⁷ 11 implementing measures will be reviewed by the end of 2014 (eight ecodesign and three energy labelling measures).

increasing workload resulting from the need to implement the existing Working Plans⁸ and to launch preparatory studies for new product groups, together with limited resources, would risk postponing (at least until 2015) the regulatory work on non-energy related product groups.

- The different approach required for non-energy related products. Unlike energy-using products, many non-energy-related products (e.g. food, beverages, textiles) have a significant environmental impact that mainly occurs in the earliest phase of the life cycle (e.g., the production of raw materials in cattle and crops) and therefore product testing would no longer be adequate for conformity assessment.
- The current significant difficulty in establishing enforceable ecodesign requirements for those non-energy related product groups with the highest savings potential⁹.

4. Conclusion

The Commission consulted the Ecodesign Consultation Forum on 19 April 2012 on the recommendations of the evaluation study and on its preliminary conclusions. The Commission's views on the way forward to improve the effectiveness of the Directive and its implementing measures, as well as on its scope have been widely supported by stakeholders¹⁰.

The Commission therefore concludes that there **is neither a need for an immediate revision of the Ecodesign Directive, nor for the extension of its scope to non-energy related products** and proposes the following approach:

- If appropriate, specific aspects of the Ecodesign Directive that were subject to the present review can be reassessed in the forthcoming review of the Energy Labelling Directive in 2014. The effects of ecodesign implementing regulations and energy labelling delegated regulations applicable to the same energy-related product are often linked and complementary ;
- Any future evaluation study reviewing specific aspects of the Ecodesign Directive should:
 - take into account the results of the 2011 evaluation study and, where necessary, update its recommendations;
 - in the light of newly available evidence, special attention should be paid to those aspects that might have not been fully assessed in the 2011 evaluation study (such as the efficiency of implementing measures and harmonised standards and a more close coordination between the implementation of two Directives).

⁸ Mainly implementation, communication and legal activities and the work on 35 standards

⁹ Product requirements seem feasible for non-energy related products such as furniture, cleaning chemicals, mattresses, toys. However, these products account for a minor share of the total environmental impacts of non-energy related products.

¹⁰ See minutes of the Ecodesign Consultation Forum of 19 April 2012 http://ec.europa.eu/enterprise/policies/sustainable-business/ecodesign/consultation-forum/files/20120419_minutes_en.pdf

The Commission will continue working together with Member States and stakeholders on improving the implementation of the Ecodesign Directive and its implementing measures.