

EUROPEAN ECONOMIC AREA
STANDING COMMITTEE
OF THE EFTA STATES

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WORKING GROUP ON ENERGY MATTERS

**Comments from the EEA EFTA States on the proposal for a
Directive on establishing a framework for the setting of eco-design
requirements for energy-using products**

COM (2003) 453 final

I SUMMARY

The EEA EFTA States support the objectives of this framework directive, including the focus on reducing negative environmental impacts from energy-using products, and the desire to ensure the free movement of such products within the Internal Market.

The proposal has a very wide scope, and uses an open-ended definition of energy-using products. It also undertakes to consider environmental effects throughout the life cycle of products. This implies a very broad and complex range of potential issues, and creates some uncertainty over how the directive will actually operate.

The EEA EFTA States will welcome steps to clarify elements of the proposed framework, notably the criteria for setting eco-design requirements, the treatment of products not meeting the requirements, the effects on external trade, the interplay with other policy instruments promoting energy efficiency, and the sanctions applicable in cases of non-compliance.

The EEA EFTA States would finally like to underline that these are preliminary comments, and would still like to be consulted on important steps in the decision-making process since the text will be subject to changes in the Council and the European Parliament.

II DETAILED COMMENTS

1. The EFTA Working Group on Energy Matters has made a first analysis of the proposed framework directive on the setting of eco-design requirements for energy-using products, based also on the informal discussions held with the European Commission during the Working Group meetings on 24th November 2003 and 3rd February 2004. The proposal is based on article 95 of the EC Treaty and is therefore being considered within the framework of the EEA agreement.

2. The EEA EFTA States voice their support for the overall objectives of the framework directive, including the focus on reducing negative environmental impacts from energy using products (EuP's), the free movement of such products within the internal market and the contribution to the security of energy supply resulting from lower energy consumption of EuP's. The EEA EFTA States also endorse the approach whereby requirements for environmental performance are built into the EuP's right from the design phase.

3. The proposal is very wide in scope, and the concerns and remarks are therefore of a more general nature at this point in the process. Since the EU Energy Council has been undertaking a structured debate on the proposal, the EEA EFTA States find it appropriate and timely to express their views on the main orientation of the proposal. However, it is underlined that these comments are of a preliminary nature and positions could change as the decision-making procedure evolves.

Scope of the directive

4. In principle the EEA EFTA States support the ambition to monitor EuPs throughout their entire life cycle. The "cradle to the grave" approach, however, requires significant skills from policymakers and governments in the coordination of policies and in order to define effective legal frameworks. While the overall objectives and purpose of the proposed directive enjoy general support, there are some concerns among the EEA EFTA States that it would be very difficult to make a framework directive of this type operational in practice.

5. The EEA EFTA States express some concern at the wide scope of the directive and the open-ended definition of energy-using products. This is combined with a selection procedure without clear criteria for those products that may eventually be subjected to implementing measures.

Eco-design requirements

6. The EEA EFTA States take note of the fact that the proposal allows for the specification of requirements necessary to achieve a certain standard and to obtain a CE marking. A question which has been addressed in the EFTA Working Group on Energy Matters is how products which do not achieve the CE marking will be treated, and how transitional periods will be managed to allow time for the necessary adjustments by manufacturers.

7. In general, the EEA EFTA States request that the principles governing the application of eco-design requirements should be aligned with those of the EU's 'new approach' to technical harmonisation. In particular, this Directive should include the objective, as far as possible, of ensuring that any additional requirements can be managed within the existing modules for conformity assessment for a given product, as specified in existing sectoral directives.

8. The EEA EFTA States express some concern at the lack of assessment of the costs of the measures to be implemented. The lack of criteria of cost effectiveness when ranking and selecting EuPs is a general weakness of the proposed framework directive and it is recommended that these issues are reconsidered both in the Commission and in the Council.

Technological change

9. The EEA EFTA states underline the importance of technological changes in EuPs. It is therefore necessary to avoid that regulatory frameworks constitute constraints on technological changes or have the potential effect of freezing the technological development of more energy efficient EuPs in the marketplace.

Trade effects

10. The possible constraints in the trade of EuPs should be assessed in order to avoid trade distortions with countries outside the Internal Market.

Interplay with other policy instruments and policies to promote energy efficiency

11. The relationship between more voluntary approaches, such as voluntary agreements, and binding regulatory frameworks is addressed in the proposed directive. It is however not clear to the EFTA Working Group on Energy Matters the criteria that govern the choice between a voluntary approach and an implementing regulatory measure.

12. In general the interplay between the overall energy efficiency policy and this framework directive requires further analysis. The approach of labelling the energy efficiency of household appliances is already a part of the EU/EEA approach to EuPs and the EEA EFTA States have some concern for the efficiency in managing two parallel processes. Reference could also be made to the labelling of office equipment through the Energy Star programme.

Sanctions

13. Article 15 provides for penalties applicable to infringements of the regulations setting up eco-design requirements. The EEA EFTA States underline the need for clarification of the required degree of harmonisation of penalties among Member States.

14. With regard to the accuracy of the text of the proposed directive, attention is drawn to annex VII, where the article referred to should be article 12.3, not 12.4 as stated in the present version

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