COMMON POSITION (EC) No 9/2005
adopted by the Council on 29 November 2004

with a view to adopting Directive 2005/.../EC of the European Parliament and of the Council of...
establishing a framework for the setting of ecodesign requirements for energy-using products and
Parliament and of the Council

(2005/C 38 E/04)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EURO-
PEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 95 thereof,

Having regard to the proposal from the Commission,

Having regard to the Opinion of the European Economic and Social Committee (1),

After consulting the Committee of the Regions,

Acting in accordance with the procedure laid down in Article 251 of the Treaty (2),

Whereas:

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

(2) Energy using products (EuPs) account for a large proportion of the consumption of natural resources and
energy in the Community. They also have a number of other important environmental impacts. For the vast majority
of product categories available on the Community market, very different degrees of environmental impact can
be noted though they provide similar functional performances. In the interest of sustainable development,
continuous improvement in the overall environmental impact of those products should be encouraged, notably
by identifying the major sources of negative environmental impacts and avoiding transfer of pollution, when
this improvement does not entail excessive costs.

(3) The ecodesign of products is a crucial factor in the Community strategy on Integrated Product Policy. As a
preventive approach, designed to optimise the environmental performance of products, while maintaining their
functional qualities, it provides genuine new opportunities for manufacturers, for consumers and for society as
a whole.

(4) Energy efficiency improvement – with one of the available options being more efficient end use of electricity – is
regarded as contributing substantially to the achievement of greenhouse gas emission targets in the Community. Electricity demand is the fastest growing energy end use category and is projected to grow within the
next 20 to 30 years, in the absence of any policy action to counteract this trend. A significant reduction in
energy consumption as suggested by the European Climate Change Programme reported by the Commission is possible. Climate change is one of the priorities of the Sixth Community Environment Action Programme, laid down by Decision No 1600/2002/EC of the European Parliament and of the Council of 22 July 2002 (3). Energy saving is the most cost effective way to increase security of supply and reduce import dependency. Therefore, substantial demand side measures and targets should be adopted.

(5) Action should be taken during the design phase of EuPs, since it appears that the pollution caused during a
product’s life cycle is determined at that stage, and most of the costs involved are committed then.

(6) A coherent framework for the application of Community ecodesign requirements for EuPs should be estab-
lished with the aim of ensuring the free movement of those products which comply and of improving their
overall environmental impact. Such Community requirements should respect the principles of fair competition and
international trade.

(7) Ecodesign requirements should be set bearing in mind the goals and priorities of the Sixth Community Environment Action Programme, including as appropriate applicable goals of the relevant thematic strategies of that Programme.

(8) This Directive seeks to achieve a high level of protection for the environment by reducing the potential environmental impact of EuPs, which will ultimately be beneficial to consumers and other end users. Sustainable development also requires proper consideration of the health, social and economic impact of the measures envisaged. Improving the energy efficiency of products contributes to the security of the energy supply, which is a precondition of sound economic activity and therefore of sustainable development.

(9) In order to maximise the environmental benefits from improved design it may be necessary to inform consumers about the environmental characteristics and performance of EuPs and to advise them about how to use products in a manner which is environmentally friendly.

(10) The approach set out in the Green Paper on Integrated Product Policy, which is a major innovative element of the Sixth Community Environment Action Programme, aims to reduce the environmental impacts of products across the whole of their life cycle. Considering at the design stage a product’s environmental impact throughout its whole life cycle has a high potential to facilitate environmental improvement in a cost-effective way. There should be sufficient flexibility to enable this factor to be integrated in product design whilst taking account of technical, functional and economic considerations.

(11) Although a comprehensive approach to environmental performance is desirable, greenhouse gas mitigation through increased energy efficiency should be considered a priority environmental goal pending the adoption of a working plan.

(12) It may be necessary and justified to establish specific quantified ecodesign requirements for some products or environmental aspects thereof in order to ensure that their environmental impact is minimised. Given the urgent need to contribute to the achievement of the commitments in the framework of the Kyoto Protocol to the United Nations Framework Convention on Climate Changes (UNFCCC), and without prejudice to the integrated approach promoted in this Directive, some priority should be given to those measures with a high potential for reducing greenhouse gas emissions at low cost. Such measures can also contribute to a sustainable use of resources and constitute a major contribution to the 10-year framework of programmes on sustainable production and consumption agreed at the World Summit on Sustainable Development in Johannesburg in September 2002.

(13) The level of ecodesign requirements should normally be established on the basis of technical, economic and environmental analysis. Flexibility in the method for establishing the level of requirements can make swift improvement of environmental performance easier. Interested parties involved should be consulted and cooperate actively in this analysis. The setting of mandatory measures requires proper consultation of the parties involved. Such consultation may highlight the need for a phased introduction or transitional measures. The introduction of interim targets increases the predictability of the policy, allows for accommodating product development cycles and facilitates long-term planning for interested parties.

(14) Priority should be given to alternative courses of actions such as self-regulation by the industry where such actions are likely to deliver the policy objectives faster or in a less costly manner than mandatory requirements. Legislative measures may be needed where market forces fail to evolve in the right direction or at an acceptable speed.

(15) Self-regulation, including voluntary agreements offered as unilateral commitments by industry, can provide for quick progress due to rapid and cost-effective implementation, and allows for flexible and appropriate adaptation to technological options and market sensitivities.

(16) Chapter 6 of the Commission’s ‘Communication on Environmental Agreements at Community level within the Framework of the Action Plan on the Simplification and Improvement of the Regulatory Environment’ could provide useful guidance when assessing self-regulation by industry in the context of this Directive.

(17) 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.

(18) EuPs complying with the ecodesign requirements laid down in implementing measures to this Directive should bear the ‘CE’ marking and associated information, in order to enable them to be placed on the internal market and move freely. The rigorous enforcement of implementing measures is necessary to reduce the environmental impact of regulated EuPs and to ensure fair competition.

(19) When preparing implementing measures and its working plan the Commission should consult Member States’ representatives as well as interested parties concerned with the product group, such as industry, including SMEs and craft industry, trade unions, traders, retailers, importers, environmental protection groups and consumer organisations.
One of the main roles of harmonised standards should be to help manufacturers in applying the implementing measures adopted under this Directive. Such standards could be essential in establishing measuring and testing methods. In the case of generic ecodesign requirements harmonised standards could contribute considerably to guiding manufacturers in establishing the ecological profile of their products in accordance with the requirements of the applicable implementing measure. These standards should clearly indicate the relationship between their clauses and the requirements dealt with. The purpose of harmonised standards should not be to fix limits for environmental aspects.

For the purpose of definitions used in this Directive it is useful to refer to relevant international standards such as ISO 14040.

This Directive is in accordance with certain principles for the implementation of the new approach as set out in the Council Resolution of 7 May 1985 on a new approach to technical harmonisation and standards (*) and of making reference to harmonised European standards. The Council Resolution of 28 October 1999 on the role of standardisation in Europe (**) recommended that the Commission should examine whether the new approach principle could be extended to sectors not yet covered as a means of improving and simplifying legislation wherever possible.


household electric refrigerators, freezers and combinations thereof (1) and Directive 2000/55/EC of the European Parliament and of the Council of 18 September 2000 on energy efficiency requirements for ballasts for fluorescent lighting (2) already contain provisions for the revision of the energy efficiency requirements, they should be integrated into the present framework.

(30) Directive 92/42/EEC provides for a star rating system intended to ascertain the energy performance of boilers. Since Member States and the industry agree that the star rating system has proved not to deliver the expected result, Directive 92/42/EEC should be amended to open the way for more effective schemes.


(32) Council Directive 86/594/EEC of 1 December 1986 on airborne noise emitted by household appliances (6) lays down the conditions under which publication of information on the noise emitted by such appliances may be required by Member States, and defines a procedure to determine the level of noise. For harmonisation purposes noise emissions should be included in an integrated assessment of environmental performance. Since this Directive provides for such an integrated approach, Directive 86/594/EEC should be repealed.

(33) The measures necessary for the implementation of this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission (7).

(34) Member States should determine the penalties to be applied in the event of infringements of the national provisions adopted pursuant to this Directive. Those penalties should be effective, proportionate and dissuasive.

(35) It should be remembered that paragraph 34 of the Inter-institutional agreement on better law-making (8) states that the Council ‘will encourage the Member States to draw up, for themselves and in the interests of the Community, their own tables which will, as far as possible, illustrate the correlation between directives and the transposition measures and to make them public.’

(36) Since the objective of the proposed action, namely to ensure the functioning of the internal market by requiring products to reach an adequate level of environmental performance, cannot be sufficiently achieved by Member States acting alone and can therefore, by reason of its scale and effects, be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve this objective.

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Subject matter and scope

1. This Directive establishes a framework for the setting of Community ecodesign requirements for energy using products with the aim of ensuring the free movement of those products within the internal market.

2. This Directive provides for the setting of requirements which the energy using products covered by implementing measures must fulfil in order for them to be placed on the market and/or put into service. It contributes to sustainable development by increasing energy efficiency and the level of protection of the environment, while at the same time increasing the security of the energy supply.

3. This Directive shall not apply to means of transport for persons or goods.

4. This Directive and the implementing measures adopted pursuant to it shall be without prejudice to Community waste management legislation and Community chemicals legislation, including Community legislation on fluorinated greenhouse gases.

(2) OJ L 279, 1.11.2000, p. 33.
Article 2

Definitions

For the purposes of this Directive the following definitions shall apply:

1. ‘Energy-using Product’ or ‘EuP’ means a product which, once placed on the market and/or put into service, is dependent on energy input (electricity, fossil fuels and renewable energy sources) to work as intended, or a product for the generation, transfer and measurement of such energy, including parts dependent on energy input and intended to be incorporated into an EuP 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;

2. ‘Components and sub-assemblies’ means parts intended to be incorporated into EuPs, and which are not placed on the market and/or put into service as individual parts for end users or the environmental performance of which cannot be assessed independently;

3. ‘Implementing measures’ means measures adopted pursuant to this Directive laying down ecodesign requirements for defined EuPs or for environmental aspects thereof;

4. ‘Placing on the market’ means making an EuP available for the first time on the Community market with a view to its distribution or use within the Community whether for reward or free of charge and irrespective of the selling technique;

5. ‘Putting into service’ means the first use of an EuP for its intended purpose by an end-user in the Community;

6. ‘Manufacturer’ means any natural or legal person who manufactures EuPs covered by this Directive and is responsible for their conformity with this Directive in view of their being placed on the market and/or put into service under the manufacturer’s own name or trademark or for the manufacturer’s own use. In the absence of a manufacturer as defined in the first sentence, any natural or legal person who places on the market and/or puts into service EuPs covered by this Directive shall be considered a manufacturer;

7. ‘Authorised representative’ means any natural or legal person established in the Community who has received a written mandate from the manufacturer to perform on his behalf all or part of the obligations and formalities connected with this Directive;

8. ‘Materials’ means all materials used during the life cycle of an EuP;

9. ‘Product design’ means the set of processes that transform legal, technical, safety, functional, market or other requirements to be met by an EuP into the technical specification for that EuP;

10. ‘Environmental aspect’ means an element or function of an EuP that can interact with the environment during its life cycle;

11. ‘Environmental impact’ means any change to the environment wholly or partially resulting from an EuP during its life cycle;

12. ‘Life cycle’ means the consecutive and interlinked stages of an EuP from raw material use to final disposal;

13. ‘Reuse’ means any operation by which an EuP or its components, having reached the end of their first use, are used for the same purpose for which they were conceived, including the continued use of an EuP which is returned to a collection point, distributor, recycler or manufacturer, as well as reuse of an EuP following refurbishment;

14. ‘Recycling’ means the reprocessing in a production process of waste materials for the original purpose or for other purposes but excluding energy recovery;

15. ‘Energy recovery’ means the use of combustible waste as a means to generate energy through direct incineration with or without other waste but with recovery of the heat;


17. ‘Waste’ means any substance or object in the categories set out in Annex I to Directive 75/442/EEC which the holder discards or intends or is required to discard;


19. ‘Ecological profile’ means a description, in accordance with the implementing measure applicable to the EuP, of the inputs and outputs (such as materials, emissions and waste) associated with an EuP throughout its life cycle which are significant from the point of view of its environmental impact and are expressed in physical quantities that can be measured;

20. ‘Environmental performance’ of an EuP means the results of the manufacturer’s management of the environmental aspects of the EuP, as reflected in its technical documentation file;

21. ‘Improvement of the environmental performance’ means the process of enhancing the environmental performance of an EuP over successive generations, although not necessarily in respect of all environmental aspects of the product simultaneously;

22. ‘Ecodesign’ means the integration of environmental aspects into product design with the aim of improving the environmental performance of the EuP throughout its whole life cycle;

23. ‘Ecodesign requirement’ means any requirement in relation to an EuP, or the design of an EuP, intended to improve its environmental performance, or any requirement for the supply of information with regard to the environmental aspects of an EuP;

24. ‘Generic ecodesign requirement’ means any ecodesign requirement based on the ecological profile as a whole of an EuP without set limit values for particular environmental aspects;

25. ‘Specific ecodesign requirement’ means a quantified and measurable ecodesign requirement relating to a particular environmental aspect of an EuP, such as energy consumption during use, calculated for a given unit of output performance;

26. ‘Harmonised standard’ means a technical specification adopted by a recognised standards body under a mandate from the Commission, in accordance with the procedure laid down in Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations (1), for the purpose of establishing a European requirement, compliance with which is not compulsory.

Article 3

Placing on the market and/or putting into service

1. Member States shall take all appropriate measures to ensure that EuPs covered by implementing measures may be placed on the market and/or put into service only if they comply with those measures and bear the CE marking in accordance with Article 4.

2. Member States shall designate the authorities responsible for market surveillance. They shall arrange for such authorities to have and use the necessary powers to take the appropriate measures incumbent upon them under this Directive. Member States shall define the tasks, powers and organisational arrangements of the competent authorities which shall be entitled:

(i) to organise appropriate checks on EuP compliance, on an adequate scale, and to oblige the manufacturer or its authorised representative to recall non-compliant EuPs from the market in accordance with Article 6;

(ii) to require the provision of all necessary information by the parties concerned, as specified in implementing measures;

(iii) to take samples of products and subject them to compliance checks.

3. Member States shall keep the Commission informed about the results of the market surveillance, and where appropriate the Commission shall pass on such information to the other Member States.

4. Member States shall ensure that consumers and other interested parties are given an opportunity to submit observations on product compliance to the competent authorities.

Article 4

Marking and declaration of conformity

1. Before an EuP covered by implementing measures is placed on the market and/or put into service, a CE conformity marking shall be affixed and a declaration of conformity issued whereby the manufacturer or its authorised representative ensures and declares that the EuP complies with all relevant provisions of the applicable implementing measure.

2. The CE conformity marking consists of the initials ‘CE’ as shown in Annex III.

3. The declaration of conformity shall contain the elements specified in Annex VI and shall refer to the appropriate implementing measure.

4. The affixing of markings on an EuP which are likely to mislead users as to the meaning or form of the CE marking shall be prohibited.

5. Member States may require the information to be supplied pursuant to Annex I, Part 2 to be in their official language(s) when the EuP reaches the end user.

Member States shall also authorise the provision of this information in one or more other official Community language(s).

When applying the first subparagraph, Member States shall take into account in particular:

(a) whether the information can be supplied by harmonised symbols or recognised codes or other measures;

(b) the type of user anticipated for the EuP and the nature of the information which is to be provided.

Article 5

Free movement

1. Member States shall not prohibit, restrict or impede the placing on the market and/or putting into service, within their territories, on grounds of ecodesign requirements relating to those ecodesign parameters referred to in Annex I, part 1 which are covered by the applicable implementing measure, of an EuP that complies with all the relevant provisions of the applicable implementing measure and bears the CE marking in accordance with Article 4.

2. Member States shall not prohibit, restrict or impede the placing on the market and/or putting into service, within their territories, of an EuP bearing the CE marking in accordance with Article 4 on grounds of ecodesign requirements relating to those ecodesign parameters referred to in Annex I, Part 1 for which the applicable implementing measure provides that no ecodesign requirement is necessary.

3. Member States shall not prevent the display, for example at trade fairs, exhibitions and demonstrations, of EuPs which are not in conformity with the provisions of the applicable implementing measure, provided that there is a visible indication that they may not be placed on the market and/or put into service until brought into conformity.

Article 6

Safeguard clause

1. Where a Member State ascertains that an EuP bearing the CE marking referred to in Article 4 and used in accordance with its intended use does not comply with all the relevant provisions of the applicable implementing measure, the manufacturer or its authorised representative shall be obliged to make the EuP comply with the provisions of the applicable implementing measure and/or with the CE marking and to end the infringement under conditions imposed by the Member State.

Where non-compliance continues, the Member State shall take a decision restricting or prohibiting the placing on the market and/or putting into service of the EuP in question or ensure that it is withdrawn from the market.

2. Any decision by a Member State pursuant to this Directive which restricts or prohibits the placing on the market and/or the putting into service of an EuP shall state the grounds on which it is based.

Such decision shall be notified forthwith to the party concerned, who shall at the same time be informed of the legal remedies available under the laws in force in the Member State concerned and of the time limits to which such remedies are subject.

3. The Member State shall immediately inform the Commission and the other Member States of any decision taken pursuant to paragraph 1, indicating the reasons therefor, and, in particular, whether non-compliance is due to:

(a) failure to satisfy the requirements of the applicable implementing measure;
(b) incorrect application of harmonised standards as referred to in Article 9(2);
(c) shortcomings in harmonised standards as referred to in Article 9(2).

4. The Commission shall enter into consultation with the parties concerned without delay and may draw upon technical advice from independent external experts.

Following that consultation, the Commission shall immediately inform the Member State which took the decision and the other Member States of its views.

Where the Commission considers that the decision is unjustified, it shall immediately inform the Member States to that effect.

5. Where the decision referred to in paragraph 1 is based on a shortcoming in a harmonised standard, the Commission shall immediately initiate the procedure set out in Article 9(2), (3) and (4). The Commission shall at the same time inform the Committee referred to in Article 15(1).

6. The Member States and the Commission shall take the necessary measures to guarantee confidentiality with regard to information provided during that procedure, where justified.

7. The decisions taken by Member States pursuant to this Article shall be made public, in a transparent way.

8. The Commission's opinion on those decisions shall be published in the Official Journal of the European Union.

Article 7

Conformity assessment

1. Before placing an EuP covered by implementing measures on the market and/or putting such an EuP into service, the manufacturer or its authorised representative shall ensure that the infringement under conditions imposed by the Member States.

2. The conformity assessment procedures shall be specified by the implementing measures and shall leave to manufacturers the choice between the internal design control set out in Annex IV and the management system set out in Annex V. When duly justified and proportionate to the risk, the conformity assessment procedure shall be specified among relevant modules as described in Decision 93/463/EEC.

If an EuP covered by implementing measures is designed by an organisation registered in accordance with Regulation (EC) No 761/2001 of the European Parliament and of the Council of 19 March 2001 allowing voluntary participation by organisations in a Community eco-management and audit scheme (EMAS) (1) and the design function is included within the scope of that registration, the management system of that organisation shall be presumed to comply with the requirements of Annex V to this Directive.

If an EuP covered by implementing measures is designed by an organisation having a management system which includes the product design function and which is implemented in accordance with harmonised standards the reference numbers of which have been published in the Official Journal of the European Union, that management system shall be presumed to comply with the corresponding requirements of Annex V.

3. After placing an EuP covered by implementing measures on the market or putting it into service, the manufacturer or its authorised representative shall keep relevant documents relating to the conformity assessment performed and declarations of conformity issued available for inspection by Member States for a period of 10 years after the last of that EuP has been manufactured.

The relevant documents shall be made available within 10 days upon receipt of a request by the competent authority of a Member State.

4. Documents relating to the conformity assessment and declaration of conformity referred to in Article 4 shall be drawn up in one of the official languages of the Community.

Article 8

Presumption of conformity

1. Member States shall regard an EuP bearing the CE marking referred to in Article 4 as conforming to the relevant provisions of the applicable implementing measure.

2. Member States shall regard an EuP for which harmonised standards have been applied, the reference numbers of which have been published in the *Official Journal of the European Union*, as conforming to all the relevant requirements of the applicable implementing measure to which such standards relate.

3. EuPs which have been awarded the Community eco-label pursuant to Regulation (EC) No 1980/2000 shall be presumed to comply with the ecodesign requirements of the applicable implementing measure insofar as those requirements are met by the eco-label.

4. For the purposes of the presumption of conformity in the context of this Directive, the Commission, acting in accordance with the procedure referred to in Article 15(2), may decide that other eco-labels fulfil equivalent conditions to the Community eco-label pursuant to Regulation (EC) No 1980/2000. EuPs which have been awarded such other eco-labels shall be presumed to comply with the ecodesign requirements of the applicable implementing measure, insofar as those requirements are met by that eco-label.

Article 9

Harmonised standards

1. Member States shall, to the extent possible, ensure that appropriate measures are taken to enable interested parties to be consulted at national level on the process of preparing and monitoring harmonised standards.

2. Where a Member State or the Commission considers that harmonised standards the application of which is presumed to satisfy specific provisions of an applicable implementing measure do not entirely satisfy those provisions the Member State concerned or the Commission shall inform the Standing Committee set up under Article 5 of Directive 98/34/EC to that effect, giving the reasons. The Committee shall issue an opinion as a matter of urgency.

3. In the light of that Committee's opinion, the Commission shall decide to publish, not to publish, to publish with restriction, to maintain or to withdraw the references to the harmonised standards concerned in the *Official Journal of the European Union*.

4. The Commission shall inform the European standardisation body concerned and, if necessary, issue a new mandate with a view to revision of the harmonised standards concerned.

Article 10

Requirements for components and sub-assemblies

Implementing measures may require manufacturers or their authorised representatives placing components and sub-assemblies on the market and/or putting them into service to provide the manufacturer of an EuP covered by implementing measures with relevant information on the material composition and the consumption of energy, materials and/or resources of the components or sub-assemblies.

Article 11

Administrative cooperation and exchange of information

1. Member States shall ensure that appropriate measures are taken in order to encourage the authorities responsible for implementing this Directive to cooperate with each other and provide each other and the Commission with information in order to assist the operation of this Directive and in particular, assist in the implementation of Article 6.

The administrative cooperation and exchange of information shall take utmost advantage of electronic means of communication and may be supported by relevant Community programmes.

Member States shall inform the Commission of the authorities responsible for applying this Directive.

2. The precise nature and structure of the exchange of information between the Commission and Member States shall be decided in accordance with the procedure referred to in Article 15(2).

3. The Commission shall take appropriate measures in order to encourage and contribute to the cooperation between Member States referred to in this Article.
Article 12

Implementing measures

1. The Commission, acting in accordance with the procedure referred to in Article 15(2), shall adopt implementing measures.

2. For an EuP to be covered by an implementing measure it shall meet all the following criteria:

(a) the EuP shall have a volume of sales and trade of more than 200 000 units a year within the Community according to most recently available figures;

(b) the EuP shall, considering the quantities placed on the market and/or put into service, have a significant environmental impact within the Community, as specified in Community strategic priorities as set out in Decision No 1600/2002/EC;

(c) the EuP shall present significant potential for improvement in terms of its environmental impact without entailing excessive costs. In determining whether this criterion is met, the following parameters shall apply:

— the absence of other relevant Community legislation;

— a failure of market forces to address the issue;

— a wide disparity in the environmental performance of EuPs available on the market with equivalent functionality.

3. In considering whether to prepare a draft implementing measure the Commission shall take into account any views expressed by the Committee referred to in Article 15 and shall further take into account:

(a) Community environmental priorities, such as those set out in Decision No 1600/2002/EC or in the Commission’s European Climate Change Programme (ECCP);

(b) relevant self-regulation, such as voluntary agreements or other measures taken by industry.

4. In preparing a draft implementing measure the Commission shall:

(a) consider the life cycle of the EuP;

(b) carry out an assessment, which will consider the impact on environment, consumers and manufacturers, including SMEs, in terms of competitiveness, innovation, market access and costs and benefits;

(c) take into account existing national environmental legislation that Member States consider relevant;

(d) carry out appropriate consultation with stakeholders;

(e) prepare an explanatory memorandum of the draft implementing measure based on the assessment referred to in subparagraph (b);

(f) set implementing date(s), any staged or transitional measure or periods, taking into account in particular possible impacts on SMEs or on specific product groups manufactured primarily by SMEs.

5. Implementing measures shall meet all the following criteria:

(a) there shall be no significant negative impact on the functionality of the product, from the perspective of the user;

(b) health, safety and the environment shall not be adversely affected;

(c) there shall be no significant negative impact on consumers in particular as regards the affordability and the life cycle cost of the product;

(d) there shall be no significant negative impact on manufacturers’ competitiveness, including on markets outside the Community;

(e) in principle, the setting of an ecodesign requirement shall not have the consequence of imposing proprietary technology on manufacturers;

(f) no excessive administrative burden shall be imposed on manufacturers.

6. Implementing measures shall lay down ecodesign requirements in accordance with Annex I and/or Annex II.

Specific ecodesign requirements shall be introduced for selected environmental aspects which have a significant environmental impact.

Implementing measures may also provide that no ecodesign requirement is necessary for certain specified ecodesign parameters referred to in Annex I part 1.

7. The requirements shall be formulated so as to ensure that market surveillance authorities can verify the conformity of the EuP with the requirements of the implementing measure. The implementing measure shall specify whether verification can be achieved directly on the EuP or on the basis of the technical documentation.

8. Implementing measures shall include the elements listed in Annex VII.

9. Relevant studies and analyses used by the Commission in preparing implementing measures should be made publicly available.

10. Where appropriate, an implementing measure laying down ecodesign requirements shall be accompanied by guidelines, to be adopted by the Commission in accordance with Article 15(2), on the balancing of the various environmental aspects.
Article 13

Working plan

1. In accordance with the criteria set out in Article 12 and having consulted the Consultation Forum referred to in Article 14, the Commission shall not later than … (*) 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.

2. However, during the transitional period, while the first working plan referred to in paragraph 1 is being established, and in accordance with the procedure laid down in Article 15(2), the criteria set out in Article 12 and after consulting the Consultation Forum, the Commission may adopt implementing measures starting with those products which have been identified by the ECCP as offering a high potential for cost-effective reduction of greenhouse gas emissions.

Article 14

Consultation Forum

The Commission shall ensure that, in the conduct of its activities it observes, in respect of each implementing measure, a balanced participation of Member States’ representatives and all interested parties concerned with the product/product group in question, such as industry, including SMEs and craft industry, trade unions, traders, retailers, importers, environmental protection groups and consumer organisations. These parties shall meet in a Consultation Forum. The rules of procedure of the Forum shall be established by the Commission.

Article 15

Committee procedure

1. The Commission shall be assisted by a Committee.

2. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.

3. The Committee shall adopt its Rules of Procedure.

(*) Two years after adoption of this Directive.

Article 16

Penalties

The Member States shall determine the penalties applicable to breaches of the national provisions adopted pursuant to this Directive. The penalties shall be effective, proportionate and dissuasive.

Article 17

Amendments

1. Directive 92/42/EEC is hereby amended as follows:

   (1) Article 6 shall be deleted.

   (2) The following Article shall be inserted:

   ‘Article 10a

   This Directive constitutes an implementing measure within the meaning of Article 12 of Directive 2005/…/EC of … establishing … (*) (+), with regard to energy efficiency during use, in accordance with that Directive, and may be amended or repealed in accordance with Article 15(2) of Directive 2005/…/EC (+).

   (*) OJ L…’

   (3) Annex I, section 2, shall be deleted.

   (4) Annex II shall be deleted.

2. Directive 96/57/EC is hereby amended as follows:

   The following Article shall be inserted:

   ‘Article 9a

   This Directive constitutes an implementing measure within the meaning of Article 12 of Directive 2005/…/EC of … establishing (*) (+), with regard to energy efficiency during use, in accordance with that Directive, and may be amended or repealed in accordance with Article 15(2) of Directive 2005/…/EC (+).

   (*) OJ L…’

   (’ This Directive.

(*) Two years after adoption of this Directive.
3. Directive 2000/55/EC is hereby amended as follows:

The following Article shall be inserted:

‘Article 9a:

This Directive constitutes an implementing measure within the meaning of Article 12 of Directive 2005/…/EC of … establishing … (*) ('). with regard to energy efficiency during use, in accordance with that Directive, and may be amended or repealed in accordance with Article 15(2) of Directive 2005/…/EC (').

(*) Of L…’

Article 18

Repeals

Directives 78/170/EEC and 86/594/EEC are repealed. Member States may continue to apply existing national measures adopted under Directive 86/594/EEC until such time as implementing measures for the products concerned are adopted under this Directive.

Article 19

Review

Not later than … (**) the Commission shall review 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 14, and, as appropriate, present proposals to the European Parliament and the Council for amending this Directive.

Article 20

Confidentiality

Requirements relating to the supply of information referred to in Article 10 and Annex I, part 2, by the manufacturer and/or its authorised representative shall be proportionate and shall take into account the legitimate confidentiality of commercially sensitive information.

Article 21

Implementation

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive before … (**). They shall forthwith inform the Commission thereof.

When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 22

Entry into force

This Directive shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

Article 23

Addressees

This Directive is addressed to the Member States.

Done at Brussels, …

For the European Parliament
The President

For the Council
The President

(*) This Directive.
(**) Five years after adoption of this Directive.

(**) 24 months after the entry into force of this Directive.
ANNEX I

METHOD FOR SETTING GENERIC ECODESIGN REQUIREMENTS
(referred to in Article 12)

Generic ecodesign requirements aim at improving the environmental performance of EuPs, focusing on significant environmental aspects thereof without setting limit values. The Commission shall, when preparing a draft implementing measure to be submitted to the Committee referred to in Article 15, identify significant environmental aspects which shall be specified in the implementing measure.

In preparing implementing measures laying down generic ecodesign requirements pursuant to Article 12 the Commission will identify, as appropriate to the EuP covered by the implementing measure, the relevant ecodesign parameters from among those listed in part 1, the information supply requirements from among those listed in part 2 and the requirements for the manufacturer listed in part 3.

Part 1. Ecodesign parameters for EuPs

1.1. In so far as they relate to product design, significant environmental aspects are identified with reference to the following phases of the lifecycle of the product:

(a) raw material selection and use;
(b) manufacturing;
(c) packaging, transport, and distribution;
(d) installation and maintenance;
(e) use;
(f) end-of-life, meaning the state of an EuP having reached the end of its first use until its final disposal.

1.2. For each phase, the following environmental aspects are to be assessed where relevant:

(a) predicted consumption of materials, of energy and of other resources such as fresh water;
(b) anticipated emissions to air, water or soil;
(c) anticipated pollution through physical effects such as noise, vibration, radiation, electromagnetic fields;
(d) expected generation of waste material;
(e) possibilities for reuse, recycling and recovery of materials and/or of energy, taking into account Directive 2002/96/EC.

1.3. In particular, the following parameters will be used, as appropriate, and supplemented by others, where necessary, for evaluating the potential for improving the environmental aspects mentioned in the previous paragraph:

(a) weight and volume of the product;
(b) use of materials issued from recycling activities;
(c) consumption of energy, water and other resources throughout the life cycle;
(e) quantity and nature of consumables needed for proper use and maintenance;
(f) ease for reuse and recycling as expressed through: number of materials and components used, use of standard components, time necessary for disassembly, complexity of tools necessary for disassembly, use of component and material coding standards for the identification of components and materials suitable for reuse and recycling (including marking of plastic parts in accordance with ISO standards), use of easily recyclable materials, easy access to valuable and other recyclable components and materials; easy access to components and materials containing hazardous substances;

(g) incorporation of used components;

(h) avoidance of technical solutions detrimental to reuse and recycling of components and whole appliances;

(i) extension of lifetime as expressed through: minimum guaranteed lifetime, minimum time for availability of spare parts, modularity, upgradeability, reparability;

(j) amounts of waste generated and amounts of hazardous waste generated;


(l) emissions to water (heavy metals, substances with an adverse effect on the oxygen balance, persistent organic pollutants);

(m) emissions to soil (especially leakage and spills of dangerous substances during the use phase of the product, and the potential for leaching upon its disposal as waste).

Part 2. Requirements relating to the supply of information

Implementing measures may require information to be supplied by the manufacturer that may influence the way the EuP is handled, used or recycled by parties other than the manufacturer. This information may include, where applicable:

— information from the designer relating to the manufacturing process;

— information for consumers on the significant environmental characteristics and performance of a product, accompanying the product when it is placed on the market to allow consumers to compare these aspects of the products;

— information for consumers on how to install, use and maintain the product in order to minimise its impact on the environment and to ensure optimal life-expectancy, as well as on how to return the product at end-of-life, and, where appropriate, information on the period of availability of spare parts and the possibilities of upgrading products;

— information for treatment facilities concerning disassembly, recycling, or disposal at end-of-life.

Information should be given on the product itself wherever possible.

This information will take into account obligations under other Community legislation, such as Directive 2002/96/EC.

Part 3. Requirements for the manufacturer

1. Focusing on the environmental aspects identified in the implementing measure as capable of being influenced in a substantial manner through product design, manufacturers of EuPs will be required to perform an assessment of the EuP model throughout its lifecycle, based upon realistic assumptions about normal conditions and purposes of use.

On the basis of this assessment manufacturers will establish the EuP’s ecological profile. It will be based on environmentally relevant product characteristics and inputs/outputs throughout the product life cycle expressed in physical quantities that can be measured.
2. Manufacturers will make use of this assessment to evaluate alternative design solutions and the achieved environmental performance of the product against benchmarks.

The benchmarks will be identified by the Commission in the implementing measure on the basis of information gathered during the preparation of the measure.

The choice of a specific design solution will achieve a reasonable balance between the various environmental aspects and between environmental aspects and other relevant considerations, such as safety and health, technical requirements for functionality, quality, and performance, and economic aspects, including manufacturing costs and marketability, while complying with all relevant legislation.
Specific ecodesign requirements aim at improving a selected environmental aspect of the product. They may take the form of requirements for reduced consumption of a given resource, such as a limit on the use of a resource in the various stages of an EuP’s life cycle, as appropriate (such as a limit on water consumption in the use phase or on the quantities of a given material incorporated in the product or a requirement for minimum quantities of recycled material).

In preparing implementing measures laying down specific ecodesign requirements pursuant to Article 12, the Commission will identify, as appropriate to the EuP covered by the implementing measure, the relevant ecodesign parameters from among those referred to in Annex I, part 1, and set the levels of these requirements, in accordance with the procedure referred to in Article 15(2), as follows:

1. A technical, environmental and economic analysis will select a number of representative models of the EuP in question on the market and identify the technical options for improving the environmental performance of the product, keeping sight of the economic viability of the options and avoiding any significant loss of performance or of usefulness for consumers.

The technical, environmental and economic analysis will also identify, for the environmental aspects under consideration, the best-performing products and technology available on the market.

On the basis of this analysis and taking into account economic and technical feasibility as well as potential for improvement, concrete measures are taken with a view to reducing the product’s environmental impact.

Concerning energy consumption in use, the level of energy efficiency or consumption will be set aiming at the life cycle cost minimum to end users for representative EuP models, taking into account the consequences on other environmental aspects. The life cycle cost analysis method uses a real discount rate on the basis of data provided from the European Central Bank and a realistic lifetime for the EuP; it is based on the sum of the variations in purchase price (resulting from the variations in industrial costs) and in operating expenses, which result from the different levels of technical improvement options, discounted over the lifetime of the representative EuP models considered. The operating expenses cover primarily energy consumption and additional expenses in other resources (such as water or detergent).

A sensitivity analysis covering the relevant factors (such as the price of energy or other resource, the cost of raw materials or production costs, discount rates) and, where appropriate, external environmental costs, will be carried out to check if there are significant changes and if the overall conclusions are reliable. The requirement will be adapted accordingly.

A similar methodology could be applied to other resources such as water.

2. For the development of the technical, environmental and economic analyses, information available in the framework of other Community activities could be used.

The same applies for information available from existing programmes applied in other parts of the world for setting the specific ecodesign requirement of EuPs traded with the EU’s economic partners.

3. The date of entry into force of the requirement will take the redesign cycle for the product into account.
ANNEX III

CE MARKING

(Referred to in Article 4(2))

The CE marking must have a height of at least 5 mm. If the CE marking is reduced or enlarged the proportions given in the above graduated drawing must be respected.

The CE marking must be affixed to the EuP. Where this is not possible, it must be affixed to the packaging and to the accompanying documents.
ANNEX IV

INTERNAL DESIGN CONTROL

(Referred to in Article 7)

1. This Annex describes the procedure whereby the manufacturer or its authorised representative who carries out the obligations laid down in section 2 of this Annex ensures and declares that the EuP satisfies the relevant requirements of the applicable implementing measure. The declaration of conformity may cover one or more products and must be kept by the manufacturer.

2. A technical documentation file making possible an assessment of the conformity of the EuP with the requirements of the applicable implementing measure will be compiled by the manufacturer.

   The documentation will specify, in particular:
   (a) a general description of the EuP and of its intended use;
   (b) the results of relevant environmental assessment studies carried out by the manufacturer, and/or references to environmental assessment literature or case studies, which are used by the manufacturer in evaluating, documenting and determining product design solutions;
   (c) the ecological profile, if required by the implementing measure;
   (d) elements of the product design specification relating to environmental design aspects of the product;
   (e) a list of the appropriate standards referred to in Article 9, applied in full or in part, and a description of the solutions adopted to meet the requirements of the applicable implementing measure where the standards referred to in Article 9 have not been applied or where these standards do not cover entirely the requirements of the applicable implementing measure;
   (f) a copy of the information concerning the environmental design aspects of the product provided in accordance with the requirements specified in Annex I, part 2;
   (g) the results of measurements on the ecodesign requirements carried out, including details of the conformity of these measurements as compared with the ecodesign requirements set out in the applicable implementing measure.

3. The manufacturer must take all measures necessary to ensure that the product will be manufactured in compliance with the design specifications referred to in section 2 and with the requirements of the measure which apply to it.
ANNEX V

MANAGEMENT SYSTEM FOR ASSESSING CONFORMITY

(Referred to in Article 7)

1. This Annex describes the procedure whereby the manufacturer who satisfies the obligations of section 2 of this Annex ensures and declares that the EuP satisfies the requirements of the applicable implementing measure. The declaration of conformity may cover one or more products and must be kept by the manufacturer.

2. A management system may be used for the conformity assessment of an EuP provided that the manufacturer implements the environmental elements specified in section 3 of this Annex.

3. Environmental elements of the management system

This section specifies the elements of a management system and the procedures by which the manufacturer can demonstrate that the EuP complies with the requirements of the applicable implementing measure.

3.1. The environmental product performance policy

The manufacturer must be able to demonstrate conformity with the requirements of the applicable implementing measure. The manufacturer must also be able to provide a framework for setting and reviewing environmental product performance objectives and indicators with a view to improving the overall environmental product performance.

All the measures adopted by the manufacturer to improve the overall environmental performance of and to establish the ecological profile of an EuP, if required by the implementing measure, through design and manufacturing, must be documented in a systematic and orderly manner in the form of written procedures and instructions.

These procedures and instructions must contain, in particular, an adequate description of:

— the list of documents that must be prepared to demonstrate the EuP’s conformity, and – if relevant – that have to be made available;
— the environmental product performance objectives and indicators and the organisational structure, responsibilities, powers of the management and allocation of resources with regard to their implementation and maintenance;
— the checks and tests to be carried out after manufacture to verify product performance against environmental performance indicators;
— procedures for controlling the required documentation and ensuring that it is kept up to date;
— the method of verifying the implementation and effectiveness of the environmental elements of the management system.

3.2. Planning

The manufacturer will establish and maintain

(a) procedures for establishing the ecological profile of the product;
(b) environmental product performance objectives and indicators, which consider technological options taking into account technical and economic requirements;
(c) a programme for achieving these objectives.

3.3. Implementation and documentation

3.3.1. The documentation concerning the management system should cover the following, in particular:

(a) responsibilities and authorities will be defined and documented in order to ensure effective environmental product performance and reporting on its operation for review and improvement;
(b) documents will be established indicating the design control and verification techniques implemented and processes and systematic measures used when designing the product;

(c) the manufacturer will establish and maintain information to describe the core environmental elements of the management system and the procedures for controlling all documents required.

3.3.2. The documentation concerning the EuP will specify, in particular:

(a) a general description of the EuP and of its intended use;

(b) the results of relevant environmental assessment studies carried out by the manufacturer, and/or references to environmental assessment literature or case studies, which are used by the manufacturer in evaluating, documenting and determining product design solutions;

(c) the ecological profile, if required by the implementing measure;

(d) documents describing the results of measurements on the ecodesign requirements carried out including details of the conformity of these measurements as compared with the ecodesign requirements set out in the applicable implementing measure;

(e) the manufacturer will establish specifications indicating, in particular, standards which have been applied; where standards referred to in Article 9 are not applied or where they do not cover entirely the requirements of the relevant implementing measure, the means used to ensure compliance;

(f) a copy of the information concerning the environmental design aspects of the product provided in accordance with the requirements specified in Annex I, part 2.

3.4. Checking and corrective action

(a) the manufacturer must take all measures necessary to ensure that the EuP is manufactured in compliance with its design specification and with the requirements of the implementing measure which applies to it;

(b) the manufacturer will establish and maintain procedures to investigate and respond to non-conformity, and implement changes in the documented procedures resulting from corrective action;

(c) the manufacturer will carry out at least every three years a full internal audit of the management system with regard to its environmental elements.
ANNEX VI

DECLARATION OF CONFORMITY
(Referred to in Article 4(3))

The EC declaration of conformity must contain the following elements:
1. the name and address of the manufacturer or of its authorised representative;
2. a description of the model sufficient for unambiguous identification;
3. where appropriate, the references of the harmonised standards applied;
4. where appropriate, the other technical standards and specifications used;
5. where appropriate, the reference to other Community legislation providing for the affixing of the CE mark that is applied;
6. identification and signature of the person empowered to bind the manufacturer or its authorised representative.
ANNEX VII

CONTENTS OF THE IMPLEMENTING MEASURES
(Referred to in Article 12(8))

The implementing measure will specify, in particular:

1. the exact definition of the type(s) of EuP(s) covered;

2. the ecodesign requirement(s) for the EuP(s) covered, implementing date(s), staged or transitional measures or periods:
   — in the case of generic ecodesign requirement(s), the relevant phases and aspects selected from those mentioned in Annex I, sections 1.1 and 1.2, accompanied by examples of parameters selected from those mentioned in Annex I, section 1.3 as guidance when evaluating improvements regarding identified environmental aspects;
   — in the case of specific ecodesign requirement(s), its (their) level(s);

3. the ecodesign parameters referred to in Annex I, part 1 relating to which no ecodesign requirement is necessary;

4. the requirements on installation of the EuP where it has a direct relevance to the EuP's environmental performance considered;

5. the measurement standards and/or measurement methods to be used; when available, harmonised standards the reference numbers of which have been published in the Official Journal of the European Union will be used;

6. the details for conformity assessment under Decision 93/465/EEC
   — where the module(s) to be applied is (are) different from Module A; the factors leading to the selection of that specific procedure;
   — where relevant the criteria for approval and/or certification of the third parties;
   where different modules are laid down in other CE requirements for the same EuP, the module defined in the implementing measure will prevail for the requirement concerned;

7. requirements on information to be provided by manufacturers or their authorised representatives to the authorities for enhanced market surveillance;

8. the duration of the transitional period during which Member States must permit the placing on the market and/or putting into service of EuPs which comply with the regulations in force in their territory on the date of adoption of the implementing measure;

9. the date for the evaluation and possible revision of the implementing measure.
STATEMENT OF THE COUNCIL’S REASONS

I. INTRODUCTION

1. On 26 August 2003, the Commission presented a proposal based on Article 95 of the Treaty.

2. The Economic and Social Committee delivered its opinion (1) on 31 March 2004.


II. OBJECTIVE OF THE PROPOSAL

4. The objective of this proposal is to create a comprehensive and coherent legislative framework for addressing eco-design requirements with the aim of:

— ensuring the free movement of energy-using products (EuP) within the EU;

— improving the overall environmental performance of these products and thereby contributing to the protection of the environment;

— contributing to the security of energy supply and enhancing the competitiveness of the EU economy.

The proposal applies in principle to any product, except means of transport for persons or goods, using energy to perform the function for which it is designed, manufactured and put on the market or into service, and covers all energy sources, although it is likely that only those using electricity, solid, liquid and gaseous fuel will be the subject of implementing measures.

III. ANALYSIS OF THE COMMON POSITION

5. The main changes introduced by the Council are as follows:

— Clarification that the objective of the proposed Directive (Article 1(4)) is without prejudice to Community waste management legislation and Community chemicals legislation, including Community legislation on fluorinated greenhouse gases.

— Definitions (Article 2): the common position specifies more clearly the scope of the proposal (definition 1) and the attribution of responsibility for the conformity of the EuP (definitions 6 and 7).

— Placing on the market (Article 3): the common position clarifies that Member States have to designate authorities responsible for market surveillance and its tasks.

— Free movement (Article 5): the current text makes clear that the EuP must comply with the eco-design parameters described in Annex I part 1 which are covered by the applicable implementing measure.

— Conformity assessment (Article 7 and Annex V): while maintaining the choice for a manufacturer between the internal design control (Annex IV) and the management system (Annex V), the latter has been amended with a view to keeping the possibility for manufacturers to use quality management systems for proving conformity, as long as they meet the requirements described in Annex V.

— Presumption of conformity (Article 8): eco-labels which will be considered to fulfil conditions equivalent to the Community eco-label will be presumed to be in conformity with the requirements of the applicable implementing measures.

— Implementing measures (Article 12): while it is stated that the Commission shall adopt implementing measures, criteria and steps to be taken by the Commission when preparing implementing measures have been clarified and specified, i.e. as concerns the criteria that particular products must meet before they can be subject to implementing measures (Article 12(2)), in particular a minimum sales and trade volume threshold.

— Working Plan (Article 13): in order to ensure transparency, the Commission shall establish a working plan which sets out an indicative list of products which could be subject to implementing measures as a priority, in particular those products which have been identified by the (European Climate Change Plan) ECCP as offering a high potential for cost-effective reduction of greenhouse gases.

— Consultation Forum (Article 14): when envisaging to prepare an implementing measure with regard to a given product, the Commission has to ensure balanced participation of Member States’ representatives and proper involvement of all parties concerned by this product. To this effect, the common position provides for the establishment of a consultation forum.

— Review (Article 19): the common position provides for an evaluation of the effectiveness of the Directive and of the implementing measures which may have been adopted under this Directive within five years after the adoption of this Directive.

— Annex I, part 3 (Requirements for the manufacturer): the description of the requirements for the manufacturer endeavours to clarify the division of tasks between the parties involved.

— Annex VII (Contents of the implementing measures): it is now specified that implementing measures may also be subject to evaluation and revision.

IV. AMENDMENTS ACCEPTED

6. Of the 78 Parliament amendments, the Council accepted the following 23, some of them in substance, partially or in principle.

Recitals:

Amendments 5 to 10: provide for further justification for a framework Directive on promoting eco-design of products in terms of environmental improvement and energy efficiency (recitals 2 to 7)

Amendment 13: clarifies the need for consumers to be informed (recital 9)

Amendment 16: specifies that priority should be given to energy efficiency in a way not detrimental to the integrated approach of the Directive (recital 11)

Amendment 17: confirms that commitments to Kyoto Protocol are without prejudice to the integrated approach (recital 12)

Amendment 20: points out that proper involvement of all parties concerned is required (recital 13)

Amendment 73: refers to the Commission Communication’s chapter dealing with the assessment of self-regulation by industry in the context of the Directive

Amendment 23: highlights that eco-design should also be integrated in SMEs and very small firms (recital 17)

Amendment 24: compliance of EuPs with eco-design requirements laid down in implementing measures will be awarded the ‘CE’ marking and associated information (recital 18).
Amendment 25: exchange of information by appropriate means of communication should be facilitated (recital 22)

Amendment 26: training and information on eco-design for small and medium-sized businesses may be considered in an appropriate way (recital 23)

Articles:

Amendment 35: the definition of ‘putting into service’ is identical to the one proposed by the EP (Article 2(5))

Amendment 47: Article 3(2 and 3) takes on board a stricter description of obligations to ensure market surveillance as proposed by the EP

Amendment 48: provides for allowing information on conformity to be supplied in one or more other official languages (Article 4(5))

Amendment 59: establishes a working plan that should set out an indicative list of products which will be considered as priorities for the adoption of implementing measures (Article 13)

Amendment 63: provides for the creation of a Consultation Forum (Article 14), with a balanced representation of Member States and all relevant parties, to be consulted before the Committee established in the Directive

Amendment 65: establishes the review of the effectiveness of the Directive including implementing measures within five years after its adoption (Article 19)

Amendment 66: introduces clarification with regard to the methods for setting generic eco-design requirements, including as concerns the role of the producer, and provides for a separate chapter covering information obligations (Annex I)

Amendment 69: clarifies the procedure of the internal design control (Annex IV).

V. AMENDMENTS NOT INTEGRATED

7. The Council considered that amendments 1 to 4, 11, 12, 14, 15, 18, 19, 21, 22, 27, 29 to 34, 36 to 46, 49 to 58, 60 to 62, 64, 67 to 68, 70 to 72, 74 to 76 and 79 to 81 would either undermine the harmonisation aim of the Directive (e.g. 1, 2 and 61), would be inconsistent with the objective of the Directive or its legal base (e.g. 3, 4, 29, 31, 37, 50 to 52, 64, 67, 68), and decided therefore not to integrate them in its common position. The Commission has rejected the same amendments.