

DIRECTIVE 2005/32/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**of 6 July 2005****establishing a framework for the setting of ecodesign requirements for energy-using products and amending Council Directive 92/42/EEC and Directives 96/57/EC and 2000/55/EC of the European Parliament and of the Council**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN 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⁾,

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 Commission in its European Climate Change Programme (ECCP) 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 ⁽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.

⁽¹⁾ OJ C 112, 30.4.2004, p. 25.

⁽²⁾ Opinion of the European Parliament of 20 April 2004 (OJ C 104 E, 30.4.2004, p. 319), Council Common Position of 29 November 2004 (OJ C 38 E, 15.2.2005, p. 45), Position of the European Parliament of 13 April 2005, and Council Decision of 23 May 2005.

⁽³⁾ OJ L 242, 10.9.2002, p. 1.

- (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 established 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) A Member State deeming it necessary to maintain national provisions on grounds of major needs relating to the protection of the environment, or to introduce new ones based on new scientific evidence relating to the protection of the environment on grounds of a problem specific to that Member State arising after the adoption of the applicable implementing measure, may do so following the conditions laid down in Article 95(4), (5) and (6) of the Treaty, that provides for a prior notification to and approval from the Commission.
- (10) 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.
- (11) 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.
- (12) 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.
- (13) 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 Change (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.
- (14) As a general principle, the energy consumption of EuPs in stand-by or off-mode should be reduced to the minimum necessary for their proper functioning.
- (15) While the best-performing products or technologies available on the market, including on international markets, should be taken as reference, the level of ecodesign requirements should 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.

- (16) Priority should be given to alternative courses of action such as self-regulation by the industry where such action is 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.
- (17) 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.
- (18) For the assessment of voluntary agreements or other self-regulation measures presented as alternatives to implementing measures, information on at least the following issues should be available: openness of participation, added value, representativeness, quantified and staged objectives, involvement of civil society, monitoring and reporting, cost-effectiveness of administering a self-regulatory initiative, sustainability.
- (19) 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.
- (20) 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.
- (21) 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.
- (22) 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.
- (23) When preparing implementing measures, the Commission should also take due account of existing national environmental legislation, in particular concerning toxic substances, which Member States have indicated that they consider should be preserved, without reducing the existing and justified levels of protection in the Member States.
- (24) Regard should be given to the modules and rules intended for use in technical harmonisation Directives set out in Council Decision 93/465/EEC of 22 July 1993 concerning the modules for the various phases of the conformity assessment procedures and the rules for the affixing and use of the CE conformity marking, which are intended to be used in the technical harmonisation directives ⁽¹⁾.
- (25) Surveillance authorities should exchange information on the measures envisaged within the scope of this Directive with a view to improving surveillance of the market. Such cooperation should make the utmost use of electronic means of communication and relevant Community programmes. The exchange of information on environmental life cycle performance and on the achievements of design solutions should be facilitated. The accumulation and dissemination of the body of knowledge generated by the ecodesign efforts of manufacturers is one of the crucial benefits of this Directive.
- (26) A competent body is usually a public or private body, designated by the public authorities, and presenting the necessary guarantees for impartiality and availability of technical expertise for carrying out verification of the product with regard to its compliance with the applicable implementing measures.

⁽¹⁾ OJ L 220, 30.8.1993, p. 23.

- (27) Noting the importance of avoiding non-compliance, Member States should ensure that the necessary means are available for effective market surveillance.
- (28) In respect of training and information on ecodesign for SMEs, it may be appropriate to consider accompanying activities.
- (29) It is in the interest of the functioning of the internal market to have standards which have been harmonised at Community level. Once the reference to such a standard has been published in the *Official Journal of the European Union*, compliance with it should raise a presumption of conformity with the corresponding requirements set out in the implementing measure adopted on the basis of this Directive, although other means of demonstrating such conformity should be permitted.
- (30) 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.
- (31) For the purpose of definitions used in this Directive it is useful to refer to relevant international standards such as ISO 14040.
- (32) 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 ⁽¹⁾ and of making reference to harmonised European standards. The Council Resolution of 28 October 1999 on the role of standardisation in Europe ⁽²⁾ 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.
- (33) This Directive is complementary to existing Community instruments such as Council Directive 92/75/EEC of 22 September 1992 on the indication by labelling and standard product information of the consumption of energy and other resources by household appliances ⁽³⁾, Regulation (EC) No 1980/2000 of the European Parliament and of the Council of 17 July 2000 on a revised Community eco-label award scheme ⁽⁴⁾, Regulation (EC) No 2422/2001 of the European Parliament and of the Council of 6 November 2001 on a Community energy efficiency labelling programme for office equipment ⁽⁵⁾, Directive 2002/96/EC of the European Parliament and of the Council of 27 January 2003 on waste electrical and electronic equipment (WEEE) ⁽⁶⁾, Directive 2002/95/EC of the European Parliament and of the Council of 27 January 2003 on the restriction of the use of certain hazardous substances in electrical and electronic equipment ⁽⁷⁾ and Council Directive 76/769/EEC of 27 July 1976 on the approximation of the laws, regulations and administrative provisions of the Member States relating to restrictions on the marketing and use of certain dangerous substances and preparations ⁽⁸⁾. Synergies between this Directive and the existing Community instruments should contribute to increasing their respective impacts and building coherent requirements for manufacturers to apply.
- (34) Since Council Directive 92/42/EEC of 21 May 1992 on efficiency requirements for new hot-water boilers fired with liquid or gaseous fuels ⁽⁹⁾, Directive 96/57/EC of the European Parliament and of the Council of 3 September 1996 on energy efficiency requirements for household electric refrigerators, freezers and combinations thereof ⁽¹⁰⁾ 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 ⁽¹¹⁾ already contain provisions for the revision of the energy efficiency requirements, they should be integrated into the present framework.

⁽³⁾ OJ L 297, 13.10.1992, p. 16. Directive as amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council (OJ L 284, 31.10.2003, p. 1).

⁽⁴⁾ OJ L 237, 21.9.2000, p. 1.

⁽⁵⁾ OJ L 332, 15.12.2001, p. 1.

⁽⁶⁾ OJ L 37, 13.2.2003, p. 24. Directive as amended by Directive 2003/108/EC (OJ L 345, 31.12.2003, p. 106).

⁽⁷⁾ OJ L 37, 13.2.2003, p. 19.

⁽⁸⁾ OJ L 262, 27.9.1976, p. 201. Directive as last amended by Commission Directive 2004/98/EC (OJ L 305, 1.10.2004, p. 63).

⁽⁹⁾ OJ L 167, 22.6.1992, p. 17. Directive as last amended by Directive 2004/8/EC of the European Parliament and of the Council (OJ L 52, 21.2.2004, p. 50).

⁽¹⁰⁾ OJ L 236, 18.9.1996, p. 36.

⁽¹¹⁾ OJ L 279, 1.11.2000, p. 33.

⁽¹⁾ OJ C 136, 4.6.1985, p. 1.

⁽²⁾ OJ C 141, 19.5.2000, p. 1.

- (35) 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.
- (36) The requirements laid down in Council Directive 78/170/EEC of 13 February 1978 on the performance of heat generators for space heating and the production of hot water in new or existing non-industrial buildings and on the insulation of heat and domestic hot-water distribution in new non-industrial buildings⁽¹⁾ have been superseded by provisions of Directive 92/42/EEC, Council Directive 90/396/EEC of 29 June 1990 on the approximation of the laws of the Member States relating to appliances burning gaseous fuels⁽²⁾ and Directive 2002/91/EC of the European Parliament and of the Council of 16 December 2002 on the energy performance of buildings⁽³⁾. Directive 78/170/EEC should therefore be repealed.
- (37) Council Directive 86/594/EEC of 1 December 1986 on airborne noise emitted by household appliances⁽⁴⁾ 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.
- (38) 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⁽⁵⁾.
- (39) 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.
- (40) It should be remembered that paragraph 34 of the Interinstitutional agreement on better law-making⁽⁶⁾ 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.'
- (41) 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.
- (42) The Committee of the Regions was consulted but did not deliver an opinion,

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 chemical legislation, including Community legislation on fluorinated greenhouse gases.

⁽¹⁾ OJ L 52, 23.2.1978, p. 32. Directive as amended by Directive 82/885/EEC (OJ L 378, 31.12.1982, p. 19).

⁽²⁾ OJ L 196, 26.7.1990, p. 15. Directive as amended by Directive 93/68/EEC (OJ L 220, 30.8.1993, p. 1).

⁽³⁾ OJ L 1, 4.1.2003, p. 65.

⁽⁴⁾ OJ L 344, 6.12.1986, p. 24. Directive as amended by Regulation (EC) No 807/2003 (OJ L 122, 16.5.2003, p. 36).

⁽⁵⁾ OJ L 184, 17.7.1999, p. 23.

⁽⁶⁾ OJ C 321, 31.12.2003, p. 1.

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 the 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 or of an importer as defined in point 8, 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. 'Importer' means any natural or legal person established in the Community who places a product from a third country on the Community market in the course of his business;
9. 'Materials' means all materials used during the life cycle of an EuP;
10. '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;
11. 'Environmental aspect' means an element or function of an EuP that can interact with the environment during its life cycle;
12. 'Environmental impact' means any change to the environment wholly or partially resulting from an EuP during its life cycle;
13. 'Life cycle' means the consecutive and interlinked stages of an EuP from raw material use to final disposal;
14. '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;

15. 'Recycling' means the reprocessing in a production process of waste materials for the original purpose or for other purposes but excluding energy recovery;
16. '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. 'Recovery' means any of the applicable operations provided for in Annex II B to Council Directive 75/442/EEC of 15 July 1975 on waste ⁽¹⁾;
18. '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. 'Hazardous waste' means any waste which is covered by Article 1(4) of Council Directive 91/689/EEC of 12 December 1991 on hazardous waste ⁽²⁾;
20. '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;
21. '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;
22. '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;

23. '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;
24. '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;
25. '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;
26. '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;
27. '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 ⁽³⁾, 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

⁽¹⁾ OJ L 194, 25.7.1975, p. 39. Directive as last amended by Regulation (EC) No 1882/2003.

⁽²⁾ OJ L 377, 31.12.1991, p. 20. Directive as amended by Directive 94/31/EC (O) L 168, 2.7.1994, p. 28).

⁽³⁾ OJ L 204, 21.7.1998, p. 37. Directive as last amended by the 2003 Act of Accession.

comply with those measures and bear the CE marking in accordance with Article 5.

Article 5

Marking and declaration of conformity

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 7;
- (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.

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 4

Responsibilities of the importer

Where the manufacturer is not established within the Community and in the absence of an authorised representative, the obligation:

- to ensure that the EuP placed on the market or put into service complies with this Directive and the applicable implementing measure,
- to keep the declaration of conformity and the technical documentation available,

shall lie with the importer.

Article 6

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 5.

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 5 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 7

Safeguard clause

1. Where a Member State ascertains that an EuP bearing the CE marking referred to in Article 5 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 there is sufficient evidence that an EuP might be non-compliant, the Member State shall take the necessary measures which, depending on the gravity of the non-compliance, can go as far as the prohibition of the placing on the market of the EuP until compliance is established.

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.

In cases of prohibition or withdrawal from the market, the Commission and the other Member States shall be immediately informed.

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 therefore, 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 10(2);
- (c) shortcomings in harmonised standards as referred to in Article 10(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 10 (2), (3) and (4). The Commission shall at the same time inform the Committee referred to in Article 19(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 8

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 an assessment of the EuP's conformity with all the relevant requirements of the applicable implementing measure is carried out.

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 93/465/EEC.

If a Member State has strong indications of probable non-compliance of an EuP, that Member State shall as soon as possible publish a substantiated assessment of the EuP's compliance which may be conducted by a competent body in order to allow timely corrective action, if any.

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 5 shall be drawn up in one of the official languages of the Community.

⁽¹⁾ OJ L 114, 24.4.2001, p. 1.

Article 9

Presumption of conformity

1. Member States shall regard an EuP bearing the CE marking referred to in Article 5 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 19(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 10

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 11

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 12

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 7.

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 19(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 13

Small and medium-sized enterprises

1. In the context of programmes from which SMEs and very small firms can benefit, the Commission shall take into account initiatives which help SMEs and very small firms to integrate environmental aspects including energy efficiency when designing their products.

2. Member States shall ensure, in particular by strengthening support networks and structures, that they encourage SMEs and very small firms to adopt an environmentally sound approach as early as at the product design stage and to adapt to future European legislation.

Article 14

Consumer information

In accordance with the applicable implementing measure, manufacturers shall ensure, in the form they deem appropriate, that consumers of EuPs are provided with:

- the requisite information on the role that they can play in the sustainable use of the product;
- when required by the implementing measures, the ecological profile of the product and the benefits of ecodesign.

Article 15

Implementing measures

1. When an EuP meets the criteria listed under paragraph 2, it shall be covered by an implementing measure or by a self-regulation measure in accordance with paragraph 3(b). When the Commission adopts implementing measures, it shall act in accordance with the procedure referred to in Article 19(2).

2. The criteria referred to in paragraph 1 are as follows:

- (a) the EuP shall represent a significant volume of sales and trade, indicatively 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, taking into account in particular:

- the absence of other relevant Community legislation or failure of market forces to address the issue properly;

- a wide disparity in the environmental performance of EuPs available on the market with equivalent functionality.
3. In preparing a draft implementing measure the Commission shall take into account any views expressed by the Committee referred to in Article 19(1) and shall further take into account:
- Community environmental priorities, such as those set out in Decision No 1600/2002/EC or in the Commission's European Climate Change Programme (ECCP);
 - relevant Community legislation and self-regulation, such as voluntary agreements, which, following an assessment in accordance with Article 17, are expected to achieve the policy objectives more quickly or at lesser expense than mandatory requirements.
4. In preparing a draft implementing measure the Commission shall:
- consider the life cycle of the EuP and all its significant environmental aspects, *inter alia*, energy efficiency. The depth of analysis of the environmental aspects and of the feasibility of their improvement shall be proportionate to their significance. The adoption of ecodesign requirements on the significant environmental aspects of an EuP shall not be unduly delayed by uncertainties regarding the other aspects;
 - carry out an assessment, which will consider the impact on environment, consumers and manufacturers, including SMEs, in terms of competitiveness including on markets outside the Community, innovation, market access and costs and benefits;
 - take into account existing national environmental legislation that Member States consider relevant;
 - carry out appropriate consultation with stakeholders;
 - prepare an explanatory memorandum of the draft implementing measure based on the assessment referred to in point (b);
 - 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:
- there shall be no significant negative impact on the functionality of the product, from the perspective of the user;
 - health, safety and the environment shall not be adversely affected;
 - there shall be no significant negative impact on consumers in particular as regards the affordability and the life-cycle cost of the product;
 - there shall be no significant negative impact on industry's competitiveness;
 - in principle, the setting of an ecodesign requirement shall not have the consequence of imposing proprietary technology on manufacturers;
 - 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, taking into account in particular easy access and use by interested SMEs.
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 19(2), on the balancing of the various environmental aspects; these guidelines will cover specificities of the SMEs active in the product sector affected by the

implementing measure. If necessary and in accordance with Article 13(1), further specialised material may be produced by the Commission for facilitating implementation by SMEs.

Article 16

Working plan

1. In accordance with the criteria set out in Article 15 and having consulted the Consultation Forum referred to in Article 18, the Commission shall not later than 6 July 2007 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 19 (2) and the criteria set out in Article 15, and after consulting the Consultation Forum, the Commission shall as appropriate introduce by anticipation:

- 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, such as heating and water heating equipment, electric motor systems, lighting in both the domestic and tertiary sectors, domestic appliances, office equipment in both the domestic and tertiary sectors, consumer electronics and HVAC (heating ventilating air conditioning) systems;
- a separate implementing measure reducing stand-by losses for a group of products.

Article 17

Self-regulation

Voluntary agreements or other self-regulation measures presented as alternatives to implementing measures in the

context of this Directive shall be assessed at least on the basis of Annex VIII.

Article 18

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 contribute, in particular, to defining and reviewing implementing measures, to examining the effectiveness of the established market surveillance mechanisms, and to assessing voluntary agreements and other self-regulation measures. These parties shall meet in a Consultation Forum. The rules of procedure of the Forum shall be established by the Commission.

Article 19

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.

Article 20

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, taking into account the extent of non-compliance and the number of units of non-complying products placed on the Community market.

Article 21

3. Directive 2000/55/EC is hereby amended as follows:

Amendments

The following Article shall be inserted:

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

'Article 9a

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 15 of Directive 2005/32/EC of the European Parliament and of the Council of 6 July 2005 establishing a framework for the setting of ecodesign requirements for energy-using products (*), with regard to energy efficiency during use, in accordance with that Directive, and may be amended or repealed in accordance with Article 19(2) of Directive 2005/32/EC.

This Directive constitutes an implementing measure within the meaning of Article 15 of Directive 2005/32/EC of the European Parliament and of the Council of 6 July 2005 establishing a framework for the setting of ecodesign requirements for energy-using products (*), with regard to energy efficiency during use, in accordance with that Directive, and may be amended or repealed in accordance with Article 19 (2) of Directive 2005/32/EC.

(*) OJ L 191, 22.7.2005, p. 29.'

(*) OJ L 191, 22.7.2005, p. 29.'

Article 22

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.

3. Annex I, point 2, shall be deleted;

Article 23

4. Annex II shall be deleted.

Review

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

Not later than 6 July 2010 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 18, and, as appropriate, present proposals to the European Parliament and the Council for amending this Directive.

The following Article shall be inserted:

'Article 9a

This Directive constitutes an implementing measure within the meaning of Article 15 of Directive 2005/32/EC of the European Parliament and of the Council of 6 July 2005 establishing a framework for the setting of ecodesign requirements for energy-using products (*), with regard to energy efficiency during use, in accordance with that Directive, and may be amended or repealed in accordance with Article 19 (2) of Directive 2005/32/EC.

Article 24

Confidentiality

Requirements relating to the supply of information referred to in Article 11 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.

(*) OJ L 191, 22.7.2005, p. 29.'

*Article 25***Implementation**

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive before 11 August 2007.

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.

Done at Strasbourg, 6 July 2005.

For the European Parliament
The President
J. BORRELL FONTELLES

For the Council
The President
J. STRAW

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 26***Entry into force**

This Directive shall enter into force on the 20th day following that of its publication in the *Official Journal of the European Union*.

*Article 27***Addressees**

This Directive is addressed to the Member States.

ANNEX I

Method for setting generic Eco-design requirements

(referred to in Article 15)

Generic ecodesign requirements aim at improving the environmental performance of EuPs, focusing on significant environmental aspects thereof without setting limit values. The method according to this Annex will be applied when it is not appropriate to set limit values for the product group under examination. The Commission shall, when preparing a draft implementing measure to be submitted to the Committee referred to in Article 19, identify significant environmental aspects which shall be specified in the implementing measure.

In preparing implementing measures laying down generic ecodesign requirements pursuant to Article 15 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 life cycle 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;
- (d) use of substances classified as hazardous to health and/or the environment according to Council Directive 67/548/EEC of 27 June 1967 on the approximation of laws, regulations and administrative provisions relating to the classification, packing and labelling of dangerous substances⁽¹⁾ and taking into account legislation on the marketing and use of specific substances, such as Directives 76/769/EEC or 2002/95/EC;
- (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;

⁽¹⁾ OJ 196, 16.8.1967, p. 1. Directive as last amended by Commission Directive 2004/73/EC (OJ L 152, 30.4.2004, p. 1).

- (k) emissions to air (greenhouse gases, acidifying agents, volatile organic compounds, ozone depleting substances, persistent organic pollutants, heavy metals, fine particulate and suspended particulate matter) without prejudice to Directive 97/68/EC of the European Parliament and of the Council of 16 December 1997 on the approximation of the laws of the Member States relating to measures against the emission of gaseous and particulate pollutants from internal combustion engines to be installed in non-road mobile machinery ⁽¹⁾;
- (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. Addressing 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. Other environmental aspects may be examined on a voluntary basis.

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.

⁽¹⁾ OJ L 59, 27.2.1998, p. 1. Directive as last amended by Directive 2004/26/EC (OJ L 146, 30.4.2004, p. 1).

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.

ANNEX II

Method for setting specific ecodesign requirements

(referred to in Article 15)

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 15, 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 19(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.

The performance of products available on international markets and benchmarks set in other countries' legislation should be taken into consideration during the analysis as well as when setting requirements.

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 minimising 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, including avoided greenhouse gas emissions, 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.

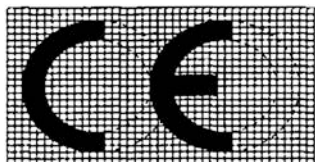
The same applies for information available from existing programmes applied in other parts of the world for setting the specific ecodesign requirement of EuPs traded with the EU's economic partners.

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 5(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 8)

1. This Annex describes the procedure whereby the manufacturer or its authorised representative who carries out the obligations laid down in point 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 10, 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 10 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 point 2 and with the requirements of the measure which apply to it.

ANNEX V

Management system for assessing conformity

(referred to in Article 8)

1. This Annex describes the procedure whereby the manufacturer who satisfies the obligations of point 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 point 3 of this Annex.
3. Environmental elements of the management system

This point 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 10 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.
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ANNEX VI

Declaration of conformity

(referred to in Article 5(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 15(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, points 1.1 and 1.2, accompanied by examples of parameters selected from those mentioned in Annex I, point 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 notably on the elements of the technical documentation which are needed for facilitating the checking of the compliance of the EuP with the implementing measure;
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, taking into account speed of technological progress.

ANNEX VIII

In addition to the basic legal requirement that self-regulatory initiatives shall comply with all provisions of the Treaty (in particular internal market and competition rules), as well as with the international engagements of the Community, including multilateral trade rules, the following non-exhaustive list of indicative criteria may be used to evaluate the admissibility of self-regulatory initiatives as an alternative to an implementing measure in the context of this Directive:

1. Openness of participation

Self-regulatory initiatives shall be open to the participation of third country operators, both in the preparatory and in the implementation phases.

2. Added value

Self-regulatory initiatives shall deliver added value (more than 'business as usual') in terms of the improved overall environmental performance of the EuP covered.

3. Representativeness

Industry and their associations taking part in a self-regulatory action shall represent a large majority of the relevant economic sector, with as few exceptions as possible. Care shall be taken to ensure respect for competition rules.

4. Quantified and staged objectives

The objectives defined by the stakeholders shall be set in clear and unambiguous terms, starting from a well-defined baseline. If the self-regulatory initiative covers a long time-span, interim targets shall be included. It must be possible to monitor compliance with objectives and (interim) targets in an affordable and credible way using clear and reliable indicators. Research information and scientific and technological background data shall facilitate the development of these indicators.

5. Involvement of civil society

With a view to ensuring transparency, self-regulatory initiatives shall be publicised, including through the use of the Internet and other electronic means of disseminating information.

The same shall apply to interim and final monitoring reports. Stakeholders including Member States, industry, environmental NGOs and consumers' associations shall be invited to comment on a self-regulatory initiative.

6. Monitoring and reporting

Self-regulatory initiatives shall contain a well-designed monitoring system, with clearly identified responsibilities for industry and independent inspectors. The Commission services, in partnership with the parties to the self-regulatory initiative, shall be invited to monitor the achievement of the objectives.

The plan for monitoring and reporting shall be detailed, transparent and objective. It shall remain for the Commission services, assisted by the Committee referred to in Article 19(1), to consider whether the objectives of the voluntary agreement or other self-regulatory measures have been met.

7. Cost-effectiveness of administering a self-regulatory initiative

The cost of administering self-regulatory initiatives, in particular as regards monitoring, shall not lead to a disproportionate administrative burden, as compared to their objectives and to other available policy instruments.

8. Sustainability

Self-regulatory initiatives shall respond to the policy objectives of this Directive including the integrated approach and shall be consistent with the economic and social dimensions of sustainable development. The protection of consumers' interests (health, quality of life and economic interests) shall be integrated.

9. Incentive compatibility

Self-regulatory initiatives are unlikely to deliver the expected results if other factors and incentives — market pressure, taxes, and legislation at national level — send contradictory signals to participants in the commitment. Policy consistency is essential in this regard and shall be taken into consideration when assessing the effectiveness of the initiative.

欧洲议会和欧盟理事会第 2005/32/EC 号指令

2005 年 7 月 6 日

为规定用能产品的生态设计要求建立框架并修订第 92/42/EEC 号和

第 96/57/EC 号理事会指令与欧洲议会和欧盟理事会第 2000/55/EC 号指令

欧洲议会和欧盟理事会

注意到《建立欧洲欧共同体条约》，尤其是其中第 95 条，

注意到欧盟委员会的提议，

注意到欧洲经济与社会委员会的意见 1

执行《条约》第 251 条规定的程序 2，

鉴于：

(1) 各成员国实施的与用能产品生态设计相关的法律或行政措施不一致会产生贸易 壁垒并扭曲共同体内的竞争，或许因而对内部市场的建立及其作用产生直接影响。各国法律的协调一致是防止此类贸易壁垒和不公平竞争的唯一途径。

(2) 用能产品(EuPs)在共同体自然资源和能源消耗中占有很大比例。它们

对环境也有其他许多重要的影响。就共同体市场可获得的大部分种类产品而言，尽管它们功能相似，但可以发现其对环境的影响程度截然不同。

为了可持续发展，应鼓励主要通过对环境负面影响主要来源的确定和避免污染转移的方式，持续改善那些产品对环境的总体影响，只要这种改善不会产生过多的费用。

(3) 产品的生态设计是共同体一体化产品政策战略的一个至关重要的因素。作为一种预防性的措施，它在保持产品功能质量的同时，通过设计使产品环境性能最大化，为制造商、消费者和社会整体提供了真正的全新机会。

(4) 能效的提高 — 连同供选方案之一，使电力的最终用途更为有效
— 被认为对共同体达到控制温室

1 OJ C 112, 30.4.2004, 第 25 页。

2. 欧洲议会 2004 年 4 月 20 日意见(OJ C 104 E, 30.4.2004, 第 319 页)，理事会 2004 年 11 月 29 日共同立场(OJ C 38 E, 15.2.2005, 第 45 页)，欧洲议会 2005 年 4 月 13 日立场和理事会 2005 年 5 月 23 日决定。

气体排放目标做出了实质性贡献。

电力需求是发展最快的一种能源最终用途，计划在未来 20—30 年得到不断发展，如果没有任何政策行为来抑制这种趋势的话。委员会在其“欧洲气候变化计划(ECCP)”中建议的大量减少能源消耗是可能的。气候变化是由欧洲议会和欧盟理事会第 1600/2002/EC 号决议 3 规定的共同体第六次环境行动计划优中先考虑的问题之一。节能是增加供给安全和降低进口依赖的最有成本效益的方式。因而，大量需求方面的措施和目标应予采纳。

(5) 在 EuPs 的设计阶段即应采取措施，因为一产品生命周期内产生的污染看来是在这一阶段决定的，产生的大部分费用也可归咎于此。

(6) 应为实施共同体 EuPs 生态设计要求建立一个一致性框架，旨在确保

那些符合要求且改善其总体环境影响的产品的自由流动。共同体的这些要求应尊重公平竞争和国际贸易的各项原则。

(7) 制定生态设计要求时应牢记第六次共同体环境行动计划的目标和优先事项，也包括适当时该计划相关主题战略下可实施的目标。

(8) 本指令寻求通过减少 EuPs 的潜在环境影响达到高水平的环境保护，这最终使消费者和其他终端用户受益。可持续发展也要求恰当考虑拟议的措施对健康、社会和经济的影 响。提高产品能效有助于能源供应的安全，这是良好经济活动的一个先决条件，因此也是可持续发展的先决条件。

(9) 若一成员国认为，根据与保护环境有关的主体需求有必要维持国家的各项规定，或者根据该成员国在批准适用实施措施后产生的具体问题而基于与环境保护有关的新的科学依据引入新的规定时，它可以按照《条约》第 95 条第(4)款、第(5)款和第(6)款规定的条件这样去做。这些条款规定应事先向委员会通报，并获得批准。

(10) 为了使改进设计而得的环境收益最大化，也许有必要告知消费者 EuPs 的环境特性和性能，并指导他们如何以对环境友好的方式使用这些产品。

(11) 作为第六次共同体环境行动计划的主要创新因素，一体化产品政策绿皮书中规定的方法旨在减少贯穿产品整个生命周期中对环境的影响。在产品的设计阶段即考虑其贯穿整个生命周期的环境影响，对于以具有成本效益的方式推动环

3 OJ L 242, 10.9.2002, 第 1 页。
境改善具有很大潜力。应有足够的灵活性，在考虑技术、功能和经济

因素的同时，使这一因素能够融入产品设计中。

(12) 尽管一种对环境性能的综合方法更令人期待，但在批准一个悬而未决的工作计划时，通过增加能效来缓解温室气体效应应是优先考虑的环境目标。

(13) 也许有必要而且有理由为一些产品或其有关环境的方面制定具体的量化生态要求，以确保其环境影响最小化。承认为履行联合国气候变化框架公约(UNFCCC)之京都议定书框架下的承诺而有所贡献的紧急需要，且不损害本指令推行的一体化方法，对那些极有可能以低成本减少温室气体排放的措施，要考虑给予一定的优先。这些措施也可能有助于各种资源的可持续使用，对于 2002 年 9 月约翰内斯堡可持续发展世界峰会达成的可持续生产与可持续消费的 10 年框架规划也构成重大贡献。

(14) 作为一项一般原则，EuPs 的待机能耗或休眠能耗应减少到其正常功能所需的最低限度。

(15) 当已有最佳性能的产品或技术进入市场上，包括国际市场，应将之作为参考，生态设计要求的水平应建立在技术、经济和环境分析的基础上。设定要求水平方法的灵活性，可以使得迅速改善环境性能更为容易。在这种分析中应与各有关当事方协商，各当事方也应予以积极配合。强制性措施的制定，要求充分征求各有关当事方的意见。引进过渡性目标可以增加政策的预见性，顾及对产品开发周期的适应性并便利各当事方制定长期计划。

(16) 对诸如产业自我规范这种可供选择的做法应给予优先考虑，产业的这种做法可能更快地传递政策目标或者是较之强制性要求更少成本。当市场的力量未能按正确方向

或未能以可接受的速度发展，则需要采取立法措施。

(17) 自我规范，包括产业作为单边承诺提出的自愿性协议，由于迅速而有成本效益的实施，并可以对技术选项和市场敏感度做出灵活而适当的反映，因而可以带来快速的发展。

(18) 当自愿性协议评定或其它自我规范措施作为供选的实施措施提出来时，应至少提供关于下列事项的信息：参与的开放性，附加价值，代表性，量化目标和阶段性目标，社会公众的介入，监督和报告，管

理一项自创的自我规范项目的成本效益和可持续性。

(19) 当产业在本指令意义下对自我规范进行评定时，委员会“关于在简化和改善立法环境行动计划框架内共同体层面环境协议的通讯”的第 6 章，可以提供有用的指导。

(20) 本指令亦应鼓励中小企业(SMEs)和极小公司中的综合生态设计。广泛而易于获取的有关其产品可持续性的信息可以推动这种综合。

(21) 在本指令实施措施中规定的符合生态设计要求的 EuPs，应带有“CE”标志和相关信息，以使它们能够投放内部市场并自由移动。为减少受约束的 EuPs 的环境影响并确保公平竞争，严格执行实施措施是必要的。

(22) 在拟定实施措施及其工作计划时，委员会应征求各成员国代表和产品群所及的各当事方的意见，包括诸如 SMEs 和手工业在内的产业界、工会、贸易商、零售商、进口商、环境保护团体和消费者组织。

(23) 在拟定实施措施时，委员会还应当充分考虑到各成员国明确表明他们认为应予保留的现行的国内环境立法，特别是那些涉及有毒物质的立法，不得降低各成员国现行合

理的保护水平。

(24) 对打算用于 1993 年 7 月 22 日第 93/465/EEC 号理事会决定中规定的技术协调指令的模式和规则应予以考虑，该决定是关于用于合格评定程序各个阶段的模式及加附和使用 CE 合格标志规则的，并确定用于技术协调指令 4。

(25) 监管机构应就本指令范围内预想的各项措施交流信息，以期改进对市场的监管。此类合作应最大限度地利用电子通信方式和有关的共同体项目。应促进关于环境生命周期性能和设计方案成就的信息交流。由各个制造商在生态设计努力中产生的知识的积累和传播，是本指令至关重要的收益之一。

(26) 一权能机构通常是政府当局指定的公共机构或私营机构，并有对其就产品对适用的实施措施的符合性进行验证的公正性和专门技术可用性所需的担保。

(27) 避免不符合性的重要性，各成员国应确保有必要的措施进行有效的市场监督。

(28) 关于为 SMEs 提供生态设计培训和信息，考虑到伴随活动或许是适宜的。

4 OJ L 220, 30.8.1993, 第 23 页.

(29) 为了内部市场的机能，要有在共同体层面协调化的标准。一旦引用这种在《欧盟官方公报》上已经公布的标准，根据对该标准的符合便可以做出符合基于本指令批准的实施措施中规定的相应要求的推定，尽管也应允许能够表明这种符合性的其它措施。

(30) 协调标准的主要作用之一应是帮助制造商采用据本指令批准的实施措施。这些标准对建立计量和测试方法是必不可少的。在通用生态设计要求的情况下，协调标准主要

用来指导制造商根据适用的实施措施的要求建立其产品的生态学档案。这些标准应清楚地表明其各项条款与所涉及的要求之间的关系。协调标准的目的不应是固定环境因素的限制。

(31) 就本指令所用定义的目的而言，查阅诸如 ISO14040 这样的国际标准是有用的。

(32) 本指令与执行如 1985 年 5 月 7 日关于技术协调与标准新方法的理事会决议 5 所规定的新方法和引用协调化的欧洲标准的某些原则相一致。1999 年 10 月 28 日关于标准化在欧洲的作用的理事会决议 6 建议，委员会应考察新方法原则是否可以在可能的情况下扩展到其作为改善和简化立法工具尚未涵盖的部门。

(33) 本指令是对现行共同体法律文件的补充，包括 1992 年 9 月 22 日关于用标签和标准产品信息表明家用电器对能源和其它资源消耗的第 92/75/EEC 号理事会指令 7、2000 年 7 月 17 日关于修订共同体生态标签奖励计划的第 1980/2000(EC) 号欧洲议会和欧盟理事会法规 8、2001 年 11 月 6 日关于共同体办公设备能效标签规划的第 2422/2001(EC)号法规 9、2003 年 1 月 27 日关于废弃电气电子设备 (WEEE)的第 2002/96/EC 号欧洲议会和欧盟理事会指令 10、2003 年 1 月 27 日关于在电气电子设备中限制使用某些有害物质的第 2002/95/EC 号欧洲议会和欧盟理事会指令 11 和 1976 年 7 月 27 日关于各成员国有关限制某些危险物质和制剂上市和使用的法律、法规和行政规定一致化的第 76/769/EEC

5 OJ C 136, 4.6.1985, 第 1 页.

6 OJ C 141, 19.5.2000, 第 1 页.

7 OJ L 297, 13.10.1992, 第 16 页.按第 1882/203(EC)号欧洲议会和欧盟理事会法规修正的指令(OJ L 284, 31.10.2003, 第 1 页).

8 OJ L 237, 21.9.2000, 第 1 页.

9 OJ L 332, 15.12.2001, 第 1 页.

10 OJ L 37, 13.2.2003, 第 24 页. 按第 2003/108/EC 号指令修正的指令(OJ L 345, 31.12.2003, 第 106 页).

11 OJ L 37, 13.2.2003, 第 19 页.

号理事会指令 12。本指令与现行共同体法律文件的配合应有助于增加其各自的影响并形成供制造商采用的一致化的要求。

(34) 既然 1992 年 5 月 21 日关于烧液体或气体燃料的新热水锅炉能效要求的第 92/42/EEC 号理事会指令 13、1996 年 9 月 3 日关于家用电冰箱、冷藏箱及其组合能效要求的第 96/57/EC 号欧洲议会和欧盟理事会指令 14 和 2000 年 9 月 18 日关于荧光灯镇流器能效要求的第 2000/55/EC 号欧洲议会和欧盟理事会指令 15 已经包含修订能效要求的规定，它们应整合到当前的框架中来。

(35) 第 92/42/EEC 号指令规定了一个星级体系用以确定锅炉的能效。既然各成员国和产业界都同意该星级体系未能达到预期的结果，第 92/42/EEC 号指令应向更有效的方案开放以待补正。

(36) 1978 年 2 月 13 日关于空间加热用热发生器和新的及现有非工业建筑中热水的生产以及新非工业建筑热绝缘与家用热水配送的第 78/170/EEC 号理事会指令 16 中规定的各项要求已经为第 92/42/EEC 号指令、1990 年 6 月 29 日关于各成

员国有关气体燃料燃具法律一致化的第 90/396/EEC 号理事会指令 17 和 2002 年 12 月 16 日关于建筑物能效的第 2002/91/EC 号欧洲议会和欧盟理事会指令 18 中的规定所取代。因此，第 78/170/EEC 号指令应予废止。

(37) 1986 年 12 月 1 日关于家用电器发射空气传播噪音的第 86/594/EEC 号理事会指令 19 规定，在何种条件下公布关于此类电器发射的噪音的信息可由各成员国确定，指令并阐明了确定噪音水平的程序。就协调化的目的而言，噪音发射应包括在环境性能的综合评估中。既然本指令提供了这种综合性的方法，第 86/594/EEC 号指令应予废止。

(38) 执行本指令所需的各项措施，应据 1999 年 6 月 28 日规定将执行权力授予委员会的程序的第 1999/468/EC 号理事会决定 20 予以

12 OJ L 262, 27.9.1976, 第 201 页.按第 2004/98EC 号委员会指令最后修正的指令(OJ L 305, 1.10.2004, 第 63 页).

13 OJ L 167, 22.6.1992, 第 17 页. 按第 2004/8/EC 号欧洲议会和欧盟理事会指令修正的指令 (OJ L 52, 21.2.2004, 第 50 页).

14 OJ L 236, 18.9.1996, 第 36 页.

15 OJ L 279, 1.11.2000, 第 33 页.

16 OJ L 52, 23.2.1978, 第 32 页. 按第 82/885/EEC 号指令修正的指令(OJ L 378, 31.12.1982, 第 19 页).

17 OJ L 196, 26.7.1990, 第 15 页. 按第 93/68/EEC 号指令修正的指令(OJ L 220, 30.8.1993, 第 1 页).

18 OJ L 1, 4.1.2003, 第 65 页.

19 OJ L 344, 6.12.1986, 第 24 页. 按第 807/2003(EC)号

法规修正的指令 (OJ L 122, 16.5.2003, 第 36 页).

20 OJ L 184, 17.7.1999, 第 23 页.

批准。

(39) 各成员国应确定在违反依照本指令批准的国内规定的情况下适用的罚则。这些罚则应是有效的、成比例的和劝戒性的。

(40) 应该牢记，关于更好地制定法律的机构间协定第 34 段 21 指出，理事会“鼓励各成员国，只要可能，为他们自己并为共同体的利益起草一览表，用以阐明指令和转化措施之间的相互关系，并将它们公之于众。”

(41) 由于各成员国单独行动不能充分地达到提议行动的目标，也就是通过要求产品达到适当水平的环境性能以确保内部市场的机能，出于规模和效果的原因，这个目标可在共同体层面更好地获得，因此共同体可根据《条约》第 5 条的补充性原则采用各种措施。根据该条规定的均衡性原则，本指令不会超出达于这个目标之需。

(42) 已经与区域委员会协商而其未提出意见，

21 OJ C 321, 31.12.2003, 第 1 页.

兹通过本指令：

第 1 条

主题与范围

1. 本指令为设定共同体用能产品生态设计要求建立了框架，旨在确保这些产品在内部市场的自由移动。
2. 本指令规定了实施措施所涵盖的欲投

放市场或投入使用的用能产品所必须满足的全套要求。本指令通过提高能效和环境保护水平，同时增加能源供应的安全性，对可持续发展做出贡献。

3. 本指令不适用于人员或货物的运输工具。

4. 本指令及据其批准的各项实施措施不会损害共同体关于废物管理的立法和共同体关于化学品的立法，包括共同体关于氟化温室气体的立法。

第 2 条

定义

就本指令的目的而言，适用下列定义：

1. “用能产品”或“EuP”意指一件产品，当其投放市场和/或投入使用时，需靠能量输入（电力、化石燃料和再生能源）完成其预定的工作，或是一件用于产生、转换和计量这种能量的产品，包括依靠能量输入并拟装配到本指令所涵盖的一件 EuP 上的零件，它们可以作为为最终用户提供的单个零件投放市场和/或投入使用，并且其环境性能可以独立地予以评定；

2. “部件和组件”意指拟装配到 EuPs 上的零件，它们不能作为为最终用户提供的单个零件投放市场和/或投入使用，或者其环境性能不能独立地予以评定；

3. “实施措施”意指据本指令批准为确定的 EuPs 规定生态设计要求或环境因素的要求；

4. “投放市场”意指将一件 EuP 以其在共同体内的销售或使用为目的首次在共同体市场上备妥，不论其作为奖品还是免费，也不考虑其销售技巧；

5. “投入使用”意指由共同体内的最终用户首次按一件 **EuP** 的设计用途进行使用。

6. “制造商”意指制造本指令涵盖的 **EuPs** 并由于其以制造商自己的名称或商标投放市场和/或投入使用或制造商自用因而负责使之符合本指令的自然人或法人。当首句定义的制造商或第 8 款定义的进口商缺位时，任何将本指令涵盖的 **EuPs** 投放市场和/或投入使用的自然人或法人将被视为制造商；

7. “授权代表”意指收到制造商的书面委托并以其名义全面或部分履行与本指令相关的义务和手续的定居在共同体内的任何自然人或法人；

8. “进口商”意指在其经营期间将一产品自第三国投放到共同体市场的定居在共同体内的任何自然人或法人；

9. “材料”意指在一件 **EuP** 生命周期中所使用的全部材料；

10. “产品设计”意指将一件 **EuP** 需满足的法律、技术、安全性、功能、市场及其他要求转化成用于该 **EuP** 的技术规格的一套步骤；

11. “环境因素”意指在一件 **EuP** 的生命周期中，其元件或功能会与环境发生相互作用；

12. “环境影响”意指在一件 **EuP** 的生命周期中，完全或部分地导致环境的任何变化；

13. “生命周期”意指一件 **EuP** 从原料使用到最终处置中连续的和相互连接的各个阶段；

14. “复用”意指任何这样一种操作，通过它一件已经到达其首次使用终点的 **EuP**

可用于其设计出来的相同目的，包括已返回到回收点、分销商、再生商或制造商手中的 EuP 的延续使用，以及一件经过翻新的 EuP 的重复使用；

15. “循环利用”意指在生产过程中对废料进行再加工以用于初始目的或其它目的，能量回收不包括在内；

16. “能量回收”意指使用可燃废物通过直接焚化作为产生能量的手段，焚化可与其它废物一起、也可以不与其它废物一起，但都伴随热量回收；

17. “回收”意指 1975 年 7 月 15 日关于废

22 OJ L 194, 25.7.1975, 第 39 页. 按第 1882/2003(EC)号法规修正的指令.

23 OJ L 377, 31.12.1991, 第 20 页.按指令修正的指令.

24 OJ L 204, 21.7.1998, 第 37 页. 按第 94/31/EC 号指令修正的指令 (OJ L 168, 2.7.1994, 第 28 页). 2003 准入法案.

物的第 75/442/EEC 号理事会指令 22 附件 IIB 中规定的任何适用过程；

18. “废物”意指第 75/442/EEC 号指令附件 I 中规定的各个类目中其持有者丢弃或打算或被要求丢弃的任何物质或物体；

19. “危险废物”意指 1991 年 12 月 12 日关于危险废物的第 91/689/EEC 号理事会指令 23 第 1 条第 4 款所涵盖的任何废物；

20. “生态学档案”意指根据适用于一件 EUP 的实施措施对与贯穿该 EuP 整个生命周期相关联的输入和输出（诸如材料、发射和废物）的记述，从 EuP 环境影响的观点看这种记述是非常重要的，并且以可计量的物理量进行表示；

21. 一件 EUP 的“环境性能”意指制造商对

EuP 的环境因素进行管理的结果，如在其技术性文档文件中所反映的。

22. “环境性能的改善”意指连续多代增强一件 EuP 环境性能的过程，尽管就产品的所有环境因素而言无需是同时的；

23. “生态设计”意指将环境因素融入到产品的设计中，旨在贯穿产品的整个生命周期中改善 EUP 的环境性能；

24. “生态设计要求”意指与一件 EuP 或一件 EuP 的设计相关的、旨在改善其环境性能的任何要求，或提供关于一件 EuP 环境因素信息的任何要求；

25. “通用生态设计要求”意指以一件 EuP 的生态学档案为整体的任何生态设计要求，而对特定的生态学方面没有设定限量；

26. “特殊生态设计要求”意指与一件 EuP 特定环境因素相关的定量化的和可计量的生态设计要求，例如使用中的能耗，按给定单位计算输出性能；

27. “协调标准”意指由公认标准机构出于建立一项欧洲要求的目的，根据委员会的委托，依照 1998 年 6 月 22 日规定提供技术标准与法规领域信息的程序的第 98/34/EC 号欧洲议会和欧盟理事会指令 24 中规定的程序批准的一项技术规范，对协调标准的遵守不是强制性的。

第 3 条

投放市场和/或投入使用

1. 各成员国应采取一切适当的措施，确保实施措施涵盖的 EuPs 只有符合那些措施并按第 5 条规定附有 CE 标志，方可投放市场和/或投入使用。

2. 各成员国应指定机构负责市场监督。他们应做出安排，使这些机构拥有并行行使本指令赋予他们的权力，以采取各种适

当的措施。各成员国应明确主管当局的任务、权力和组织安排，他们将被授权：

(i) 组织对 **EuPs** 符合指令的情况以足够的规模进行适当的检查，并责成制造商或其授权代表依照第 7 条从市场上召回不符合指令的 **EuPs**；

(ii) 如实施措施所规定的，要求有关各方提供所有必需的信息；

(iii) 对产品抽样，并使之接受符合性检查。

3. 各成员国应使委员会随时获得有关市场监督结果的信息，适当时，委员会将把这些信息传递给其他成员国。

4. 各成员国应确保消费者和其他利益相关方有机会向主管当局提交他们对产品符合指令情况的观察。

第 4 条

进口商的责任

当制造商不是定居在共同体内，而且授权代表缺位，进口商应承担以下义务：

- 确保投放市场或投入使用的 **EuP** 符合本指令和适用的实施措施，
- 随时备妥合格声明与技术文件。

第 5 条

标志与合格声明

1. 一件实施措施所涵盖的 EUP 投放市场和/或投入使用前，应加附 CE 合格标志并出具合格声明，制造商或其授权代表据之确保并声明该 EuP 符合适用实施措施的所有相关规定。
2. CE 合格标志由附件 III 所示的首字母“CE”组成。
3. 合格声明应包括附件 VI 规定的要素并应援引适当的实施措施。
4. 禁止在一件 EUP 上加附在含义上或形式上会误导用户以为是 CE 标志的标志。
5. 各成员国可要求当 EuP 到达最终用户时，以他们的官方语言提供依照附件 I 第 2 部分提供的信息。

各成员国还可授权以一种或多种共同体官方语言提供这些信息。

当应用第一小段时，各成员国应特别考虑以下事项：

- (a) 这些信息是否可以协调化的符号、公认的代码或其他公认方式提供；
- (b) 预期的 EuP 用户类型和要提供信息的性质。

第 6 条

自由移动

1. 各成员国不得以生态设计要求涉及附件 I 第 1 部分提到的那些涵盖在适用实施

措施中的生态设计参数为由，禁止、限制或阻碍一件符合适用实施措施所有相关规定并按第 5 条规定附有 CE 标志的 EUP 在其领土内投放市场和/或投入使用。

2. 各成员国不得以生态设计要求涉及附件 I 第 1 部分提到的那些涵盖在适用实施措施中的生态设计参数、且适用实施措施规定无需生态设计要求为由，禁止、限制或阻碍一件按第 5 条规定附有 CE 标志的 EUP 在其领土内投放市场和/或投入使用。

3. 各成员国不应阻碍不符合适用实施措施的各项规定的 EuPs 在诸如商品交易会上展示、展出和演示，只要有显著的标示说明它们在达到合格之前不会投放市场和/或投入使用。

第 7 条

保障条款

1. 当一成员国确知，一件附有第 5 条提及的 CE 标志且用于其预定用途的 EuP 不符合适用实施措施的所有相关规定，应责成制造商或其授权代表使得该 EuP 符合适用实施措施和/或 CE 标志的规定，并按该成员国施行的条件停止违反规定的行为。

当有充分证据表明一件 EuP 不符合相关规定，该成员国应根据违反的程度采取必要的措施，能够尽力制止该 EuP 投放市场直到其符合相关规定。

当不符合的现象还在持续，该成员国应做出决定限制或禁止有问题的 EuP 投放市场和/或投入使用或确保将其撤出市场。

在禁止或撤出市场的情况下，应立即通知委员会和其他成员国。

2. 一成员国依照本指令做出任何决定，限制或禁止一件 **EuP** 投放市场和/或投入使用，应说明其所依据的理由。

这种决定应立即向有关方面通报，同时还应通知其根据有关成员国现行法律可行的法律补救措施以及这种补救措施的时间期限。

3. 该成员国应立即通知委员会和其他成员国依据第 1 款做出的任何决定，说明做出决定的理由，特别要说明，不符合是否由于：

(a) 未能满足适用实施措施的各项要求；

(b) 不正确地应用第 10 条第(2)款提及的协调标准；

(c) 如第 10 条第(2)款提及的协调标准的缺点。

4. 委员会应立即与有关各方进行磋商，并可利用外部独立专家的技术建议。

磋商之后，委员会应立即将其观点通知做出决定的成员国和其他成员国。

25 OJ L 114, 24.4.2001, 第 1 页.

当委员会认为该决定不合理时，它应立即通知该成员国这一结果。

5. 当第 1 款的决定是基于协调标准的缺点时，委员会应立即启动第 10 条第(2)、(3)和(4)款规定的程序。委员会应同时通知第 19 条第(1)款提及的专门委员会。

6. 各成员国和委员会应采取必要的措施就该过程中提供的信息保守秘密，只要这些信息是合理的。

7. 各成员国依据本条做出的决定应以透明的方式公之于众。

8. 委员会关于那些决定的观点将公布在《欧盟官方公报》上。

第 8 条

合格评定

1. 在实施措施涵盖的一件 EuP 投放市场和或将一件 EuP 投入使用之前，制造商或其授权代表应确保已经对该 EuP 对适用实施措施的所有相关要求的符合性进行过评定。

2. 合格评定程序将由实施措施予以规定，并留有余地供制造商在附件 IV 规定的内部设计控制和附件 V 规定的管理体系之间做出选择。在恰当合理并与风险匹配的情况下，将在第 93/465/EEC 号指令所述的相关模式中对合格评定程序做出规定。

当一成员国强烈认为一件 EuP 可能不符合要求时，该成员国应尽快公布该 EuP 具体化的符合性评定，该评定可由有能力的机构进行以便及时采取纠正措施，只要有这样的机构。

如果一件 EuP 是由按照 2001 年 3 月 19 日准许共同体内的机构自愿参加环境管理与稽查项目(EMAS)的第 761/2001(EC)号欧洲议会和欧盟理事会法规 25 注册的机构设计的，而且设计功能包括在注册范围内，则应推定该机构的管理体系符合本指令附件 V 的各项要求。

如果设计一件实施措施涵盖的 EuP 的机构拥有包括产品设计功能在内的管理体系，而且这种功能是按照《欧盟官方公报》公布文献号的协调标准执行的，则应推定该管理体系符合附件 V 的相关要求。

3. 在将一件实施措施涵盖的 EuP 投放市场或投入使用后，制造商或其授权代表应

在最后制造该 EuP 的 10 年期间内保留与所进行的合格评定有关的文件和出具的合格声明，以备各成员国的检查。

一当收到一成员国主管当局的要求，应在 10 天内备妥相关文件。

4. 第 5 条提及的与合格评定相关的文件和合格声明应以共同体官方语言之一起草。

第 9 条

符合性推定

1. 各成员国应将附有第 5 条提及的 CE 标志的 EuP 视为符合适用实施措施的相关规定。

2. 各成员国应将采用了协调标准且其文献号已在《欧盟官方公报》中公布的 EUP 视为符合这些标准与之相关的适用实施措施的所有相关要求。

3. 对于已经依据第 1980/2000(EC)号法规取得共同体生态标签的 EUP，应推定其符合适用实施措施的生态设计要求，因为生态标签已经满足了那些要求。

4. 因本指令推定符合性的目的起见，委员会可根据第 19 条第(2)款的程序决定其他生态标签满足依照第 1980/2000(EC)号法规的共同体生态标签条件。对于取得此类其他生态标签的 EUP，应推定其符合适用实施措施的生态设计要求，因为该生态标签已经满足了那些要求。

第 10 条

协调标准

1. 各成员国应在可能的范围内确保采取

适当的措施，以便能够在国家层面上就协调标准的制定和监控过程征求各利益相关方的意见。

2. 当一成员国或委员会认为，推定满足一适用实施措施的协调标准的使用不能完全满足那些规定时，有关成员国或委员会应将这种情况通知根据第 98/34/EC 号指令设立的常设委员会并给出理由。常设委员会应作为紧急事项发表意见。

3. 委员会应根据常设委员会的意见，决定是否在《欧盟官方公报》中向公众公布限制、保持或撤消对有关协调标准的引用。

4. 委员会应通知有关的欧洲标准化机构，必要时做出新的委托以对有关标准进行修订。

第 11 条

对部件和组件的要求

实施措施可要求将部件和组件投放市场和/或投入使用的制造商或其授权代表，向一件实施措施所涵盖的 EuP 的制造商提供部件或组件的材料成分、能耗、材料和/或资源的有关信息。

第 12 条

管理合作与信息交流

1. 各成员国应采取适当的措施以鼓励负责本指令实施的机构相互合作，互相之间及与委员会之间提供信息，以有助于本指

令的应用，特别是有助于第 7 条的执行。

管理合作与信息交流应最大限度地利用电子通讯方式，并可由相关的共同体项目予以支持。

各成员国应将负责本指令应用的机构通知委员会。

2. 委员会与各成员国之间信息交流的准确性质和结构应根据第 19 条第(2)款提到的程序予以决定。

3. 委员会应采取适当的措施以鼓励本条提及的成员国之间的合作，并为此做出贡献。

第 13 条

中小企业

1. 在可使 SMEs 和极小公司受益的项目中，委员会应考虑那些可以帮助 SMEs 和极小公司在设计其产品时融入包括能效在内的环境因素的提议。

2. 各成员国应确保鼓励 SMEs 和极小公司在产品设计的尽早阶段采用有益环境的方式，尤其是通过强化支撑网络和结构，并适合未来的欧洲立法。

第 14 条

消费者信息

根据适用的实施措施，制造商应确保以其认为适当的形式向 EuPs 的消费者提供如下信息：

— 他们在产品持续使用中所能起的作用所必需的信息；

— 当实施措施有要求时，产品的生态学档案和生态设计收益。

第 15 条

实施措施

1. 当一件 **EuP** 满足第 2 款列出的标准时，应涵盖在一项实施措施中或根据第 2 款 b 项涵盖在自我规范措施中。委员会应根据第 19 条第(2)款提及的程序批准实施措施。

2. 第 1 款提及的标准如下：

(a) **EuP** 应在共同体内具有相当数量的销售和贸易量，按照最近得到的数字可表示为每年 200000 件以上；

(b) 考虑到投放市场和/或投入使用的数量，**EuP** 应在共同体内有重大的环境影响，如制定共同体战略优先性的第 1600/2002/EC 号决定中所规定的；

(c) 就环境影响而言，**EuP** 应有重大的改善潜力而无需过多的成本，尤其在考虑到下列各项时：

- 缺少其他相关的共同体立法或市场力量不能恰当地解决问题；
- 市场上具有同等功能的 **EUP** 的环境性能有很大差异。

3. 委员会在起草实施措施时，应考虑到第 19 条第(1)款提及的专门委员会所表达的意见，还应进一步考虑：

(a) 共同体的环境优先性，诸如那些在第 1600/2002/EC 号决定或委员会的欧洲气候变化纲要(ECCP)中所设定的项目。

(b) 相关共同体立法和自我规范，如自愿性协议，根据第 17 条做出评估后，可以预期这些协议能更快地达到政策目标或比强制性要求更少花费。

4. 在准备实施措施草案时，委员会应：

(a) 考虑 EUP 的生命周期及其所有重要的环境因素，连同能效在内。环境因素分析的深度及其改善的可行性应与其重要性相匹配。对一件 EUP 重要环境因素生态设计要求的批准，不应受到其它方面不确定性的不适当地耽搁。

(b) 在竞争性方面进行评估，包括对共同体之外的市场、创新性、市场准入及成本与效益的评估，应考虑到对环境、消费者和包括 SMEs 在内的制造商的影响；

(c) 考虑到各成员国认为相关的现行国家环境立法；

(d) 与各利益相关方进行适当的协商；

(e) 基于(b)项提及的评估，为实施措施草案准备一份说明书；

(f) 设定实施日期、阶段化、过渡措施或过渡期，要特别考虑到对 SMEs 或主要由 SMEs 制造的具体产品群的可能影响。

5. 实施措施应满足下列所有标准：

(a) 从用户的角度看，对产品功能没有重大负面影响；

(b) 不应对健康、安全性和环境有不利的影晌；

(c) 不应对消费者有重大的负面影响，特别是考虑到对产品的承受力和生命周期成本；

(d) 不应应对产业竞争性有重大的负面影响；

(e) 原则上，一项生态设计要求的设定，不应有向制造商推行专利技术的结果；

(f) 不应加给制造商过多的管理性负担。

6. 实施措施应根据附件 I 和/或附件 II 提出生态设计要求。

对于经选择的、有重大影响的环境因素应引入特殊生态设计要求。实施措施还应规定，对于附件 I 第 I 部分提及的一些具体生态设计参数无需生态设计要求。

7. 各项要求的表达应确保市场监督机构能够按照实施措施的要求验证 EuP 的符合性。实施措施应说明验证是否直接在 EuP 上完成，还是在技术文件的基础上完成。

8. 实施措施应包括附件 VII 列出的各个要素。

9. 委员会在准备实施措施时所用的相关研究和分析应该公开可得，特别要考虑到利益相关的 SMEs 易于取得和使用。

10. 只要适当，一项规定生态设计要求的实施措施应该伴有平衡环境各个方面的指南，以待委员会按照第 19 条第(2)款予以批准；这些指南应涵盖在受实施措施影响的产品部门中活动的 SMEs 的各项特征。只要需要，而且根据第 13 条第(1)款，委员会可制定出更专门化的材料以便利 SMEs 据以实施。

第 16 条

工作计划

1. 根据第 15 条设定的标准，并与第 18 条提及的咨询论坛协商，委员会将不迟于 2007 年 7 月 6 日制定出工作计划，该计划将会公之于众。

工作计划将为其后三年设定一个指示性的产品群清单，该清单将被考虑作为批准实施措施的优先顺序。

工作计划将由委员会在与咨询论坛协商后定期修订。

2. 然而，在过渡期期间，在第 1 款提及的工作计划正在制定当中，并且，依照第 19 条第(2)款规定的程序和第 15 条设定的标准，在与咨询论坛协商后，委员会将适当预先引进：

— 以那些 ECCP 认定为可以提供高成本效益潜力的减少温室气体排放的产品为起始的实施措施，诸如供热和热水设备、电机系统、家庭和第三产业用的灯具、家用电器、家庭和第三产业用的办公设备，消费电子系统和 HVAC(热通风空调)系统；

— 减少一组产品待机损失的单独的实施措施。

第 17 条

自我规范

作为本指令意义下实施措施供选办法提出的自愿性协议或其他自我规范措施将至少基于附件 VIII 予以评定。

第 18 条

咨询论坛

委员会应确保，就每一个实施措施而言，在其进行活动的过程中，注意平衡各成员国代表和关心讨论中的产品/产品群

的所有当事方的参与，诸如包括 SMEs 和手工业在内的产业界、工会、贸易商、零售商、进口商、环境保护集团和消费者组织。这些当事方特别会对确定和复审实施措施、审查已制定的市场监督机制的有效性和自愿性协议与其它自我规范措施做出贡献。这些当事方将汇聚在一个咨询论坛。委员会将制定论坛的程序规则。

第 19 条

专门委员会程序

1. 委员会将由一个专门委员会予以帮助。
2. 当引用本款时，将适用第 1999/468EC 号决定的第 5 条和第 7 条，并考虑到其中第 8 条的规定。第 1999/468EC 号决定第 5 条第(6)款规定的期间将定为三个月。
3. 专门委员会应通过其程序规则。

第 20 条

罚则

各成员国应确定违背依据本指令批准的国家规定适用的罚则。考虑到不符合性的程度以及不符合产品投放市场的件数，罚则应是有效的、成比例的和劝戒性的。

第 21 条

修正

1. 第 92/42/EEC 号指令于此修正如下：

1. 第 6 条将被删除；

2. 将插入下列条目：

`第 10a 条

在 2005 年 7 月 6 日为规定用能产品的生态设计要求建立框架的欧洲议会和欧盟理事会第 2005/32/EC 号指令(..)的意义下，根据该指令，本指令构成为关于使用中能效的一项实施措施，并可根据第 2005/32/EC 号指令第 19 条第(2)款予以修正或废止。

(..) OJ L 191, 22.7.2005,第 29 页. '

3. 附件 I 第 2 点将被删除；

4. 附件 II 将被删除。

2. 第 96/58/EC 号指令于此修正如下：

将插入下列条目：

`第 9a 条

在 2005 年 7 月 6 日为规定用能产品的生态设计要求建立框架的欧洲议会和欧盟理事会第 2005/32/EC 号指令(..)的意义下，根据该指令，本指令构成为关于使用中能效的一项实施措施，并可根据第 2005/32/EC 号指令第 19 条第(2)款予以修正或废止。

(..) OJ L 191, 22.7.2005,第 29 页. '

3. 第 2000/55/EC 号指令于此修正如下:

将插入下列条目:

'第 9a 条

在 2005 年 7 月 6 日为规定用能产品的生态设计要求建立框架的欧洲议会和欧盟理事会第 2005/32/EC 号指令(..)的意义下, 根据该指令, 本指令构成为关于使用中能效的一项实施措施, 并可根据第 2005/32/EC 号指令第 19 条第(2)款予以修正或废止。

(..) OJ L 191, 22.7.2005,第 29 页. '

第 22 条

废止

第 78/170/EEC 号指令和第 86/594/EEC 号指令予以废止。各成员国可继续应用据第 86/594/EEC 号指令批准的现行国内措施, 直到有关产品的实施措施据本指令得到批准。

第 23 条

审议

委员会将不迟于 2010 年 7 月 6 日审议本指令及其实施措施的有效性, 实施措施的限度, 市场监督机制以及任何激发出来的自我规范, 在与第 18 条提及的咨询论坛协商后且在适当时, 向欧洲议会和欧盟理

事会提出修正本指令的建议。

第 24 条

机密性

关于要制造商和/或其授权代表提供第 11 条和附件 I 第 2 部分提及的信息的要求应成合适比例，并应考虑到商业敏感信息的合法机密性。

第 25 条

执行

1. 各成员国应于 2007 年 8 月 11 日前使遵守本指令所需的法律、法规和行政规定生效。

他们应立即就此通知委员会。

当各成员国批准这些措施时，措施中应包含对本指令的引用或应在其正式出版时伴随这种应用。做出引用的方式由各成员国自定。

2. 各成员国应将其批准的本指令涵盖领域中国内法律主要规定的文本传送给委员会。

第 26 条

生效

本指令应自其在《欧盟官方公报》上公布之日起的第 20 天开始生效。

第 27 条

收件方

本指令发至各成员国。

2005年7月6日完成于斯特拉斯堡

欧洲议会主席 欧盟理事会主席

J. BORRELL FONTELLES J. STRAW

附件 1

制定通用生态设计要求的方法

(在第 15 条中提及)

通用生态设计要求旨在提高 **EuPs(EuP)** 的环境性能，集中在其中未设定限值的重要的环境因素。本附件中的方法适用于经过核查不适于设定限值的产品群。当准备要提交给专门委员会的 implements 草案时，委员会应确定需在 implements 中规定的重要的环境因素。

在根据第 15 条准备制定通用生态设计要求的 implements 时，委员会应自第 1 部分的列表中确定相关的生态设计参数、自第 2 部分的列表中确定各项要求所需的信息并自第 3 部分的列表中确定对制造尚的要求，只要它们适于 implements 所涵盖的 **EuP**。

第 1 部分 **EuPs** 的生态设计参数

1.1. 就产品的生命周期而言，确定如下几个阶段与产品设计相关的重要环境因素：

(a) 原料的选择和使用；

(b) 制造；

(c) 包装、运输和配送；

- (d) 安装与维护;
- (e) 使用;
- (f) 生命终点, 意指一件 EuP 在其最终处置时已经达到其首次使用的终点。

1.2. 对于每个阶段, 需评估如下相关的环境因素:

- (a) 预期的材料、能源和诸如淡水这样的其它资源的消耗;
- (b) 预计向空气、水和土壤的排放水平;
- (c) 预期的诸如噪声、辐射和电磁场这种物理效应造成的污染;

1 OJ 196, 16.8.1967, 第 1 页. 按第 2003/72/EC 号指令最后修整的指令(OJ L 152, 30.4.2004,第 1 页).

- (d) 预计产生的废料;
- (e) 考虑到第 2002/96/EC 号指令, 原料和/或能量的回收、循环使用和更新的可能性。

1.3. 为了改善前款提到的环境因素的评估, 只要适当, 可以特别用到下列参数, 必要时, 可由其它参数予以补充:

- (a) 产品的重量和体积;
- (b) 来自回收活动中的原料的使用情况;
- (c) 贯穿整个生命周期中能源、水和其他资源的消耗;
- (d) 根据 1967 年 6 月 27 关于与危险物质分类、包装和标签的法律、法规和行政规定一致化的第 67/548/EEC 号理事会指令划分为对健康和/或环境造成危害的物质的使用情况 1, 并考虑关于具体物质上市和使用的立法, 诸如第 76/769/EEC 号指令或第 2002/95/EC 号指令;
- (e) 为正常使用所需耗材的数量和性质;
- (f) 用以下方式表示的可重复使用和回收的容易程度: 使用的材料和部件的数量, 标准部件的使用, 拆解所需的时间, 拆解所需工具的复杂程度, 在确定可重复使用和回收的部件和材料时部件和材料编码标准的使用(包括根据 ISO 标准对

塑料零件的标识), 易回收物质的使用, 易于获得昂贵的和其它可回收的部件和材料; 易于获得包含危险物质的部件和材料;

(g) 二手部件的整合;

(h) 避免损害部件和整机重复使用和循环使用的的技术解决方案;

(i) 按如下方式延长寿命: 最小保证寿命, 备件可使用的最短时间, 模块化, 可升级性, 可维修性;

(j) 产生的废物和有害废物的数量;

(k) 在不违背 1997 年 12 月 16 日关于各成员国与限制安装在非路用移动机械的内

2 OJ L 59, 27.2.1998, 第 1 页. 按第 2004/26/EC 号指令修正的指令 (OJ L 146, 30.4.2004, 第 1 页).

燃机排放气体和颗粒物的法律一致化的第 97/68/EC 号欧洲议会和欧盟理事会指令 2 的情况下对空气的排放(温室气体, 酸性物质, 易爆有机物, 耗臭氧物质, 永久有机污染物, 重金属, 微小颗粒和悬浮物);

(l) 对水中的排放(重金属, 对氧平衡有负面影响的物质, 永久有机污染物);

(m) 对土壤中的排放(特别是在产品使用过程中有害物质的泄漏和溢出, 当作为废物处置时过滤出的潜力)。

第 2 部分 与信息提供有关的要求

各项实施措施可能会要求制造商提供除制造商以外对 EuP 的操作、使用或回收有影响的其它各方的信息。只要可行, 这些信息应包括:

— 从设计者那里得到的关于制造过程的信息;

— 当产品投放市场时, 与之相伴的就产品的重要环境特性和性能向消费者提供的信息, 这些信息使消费者能够对产品的各个方面做出比较;

— 向消费者提供为了减少产品对环境的影响并确保最佳预期寿命, 如何安装、使用和维护产品的信息, 同时提供在产品生命周期终了如何回收的信息, 以及适当时零件可供使用的期间和产品升级换代可能性的信息;

一 关于在产品生命周期终结时分解、回收或处置的处理设施的信息。

只要可能，应当随产品本身提供这样的信息。

这些信息应考虑到在其他共同体立法下的义务，诸如第 2002/96/EC 号指令。

第 3 部分 对制造商的要求

1. 在产品设计的流程中以务实的态度来确定影响实施措施的环境因素，EuPs 的制造商会被要求基于正常操作条件和使用目的的现实性假设，对贯穿整个生命周期中的 EuP 模型进行评估。其他环境因素可在自愿的基础上进行核查。

制造商在评估的基础上建立 EuP 的生态学档案。这些档案基于贯穿产品生命周期的、以可计量物理量表示的与环境相关的产品特性。

2. 制造商将利用这些评估来评价其他的可选设计方案和与参考基准相比已获得的产品的环境性能。

参考标准将由委员会基于在措施准备过程收集的信息，在实施措施中予以确定。

在遵守所有相关法规时，具体设计方案的选择，应在各种环境因素之间、环境因素与其他考虑之间达到合理的平衡，诸如安全性与健康、对功能、质量和性能的技术要求，以及包括制造成本和可销售性在内的经济因素。

附件 2

设定特殊生态设计要求的方法

(在第 15 条中提及)

特殊生态设计要求旨在改善产品的一项选定环境因素。其形式可以是对减少指定资源的消耗的要求，诸如在适当情况下在 EuP 生命周期各个阶段对资源使用的限值(诸如对整合到产品中的给定材料的用量或在使用阶段耗水量的限制)。

当根据第 15 条准备规定特殊生态设计要求的实施措施时，委员会应自附件 I 第 1 部分中提及的相关生态设计参数中确定适用于该实施措施涵盖的生态设计参数，并按照第 19 条第(20 款的程序设定这些要求的水平如下：

1. 一项技术、环境和经济分析要自市场上选择大量所论 EuP 的代表性型号，并确定用于改善产品环境性能的技术选项，着眼于选项的经济生长力并避免任何对消费者而

言重大的性能损失或有用性的损失。

对于研究中的环境因素而言，技术、环境和经济分析还应确定市场上可提供的最佳产品和技术。

在分析以及设定要求的过程中，应该考虑可投放国际市场的产品的性能和其他国家立法中设定的基准。

基于此项分析并考虑到经济、技术可行性以及改善的潜力，以使产品环境影响最小化为目的采取具体措施。

考虑到对其他环境因素的重要性，关于使用中的能耗，应设定能效水平或能耗水平，旨在使代表性型号 **EuP** 终端用户的生命周期成本最小化。生命周期成本分析法以欧洲中央银行提供的数据为基础，采用实际折扣率和 **EuP** 的实际寿命；该方法基于买价的变分和(来自工业成本的变分)与运行费用的变分和，它们来自于不同水平的技术选项，并扣抵所论代表性型号 **EuP** 的寿命。运行费用主要涵盖能耗和其它资源(如水或清洁剂)的附加费用。

应该进行涵盖相关因素(诸如能源或其他资源的价格，原料成本或生产成本，折扣率)

和适当时的外部环境成本、包括避免温室气体排放的灵敏度分析，以检查是否有重大变化以及全面结论是否可靠。要求也会做相应地调整。

类似的方法学可用于其他资源，如水资源。

2. 为了发展技术、环境和经济分析，也可使用在共同体其他框架下的活动中获得的信息。

这种方式也可用于来自世界各地对与 **EU** 经济伙伴交易的 **EuPs** 设定生态设计要求的现行项目中的信息。

3. 要求的生效日期应考虑产品周期的重新设计。

附件 3

CE 标志

(第 5 条第 2 款中提及)

CE 标志必须至少高 5mm。如果需要缩小或扩大 CE 标志，必须遵守以上格式图给出的比例。

CE 标志必须加贴到 EuP 上。如不可能，则应加附到包装上和随附的文档上。

附件 4

内部设计管理

(在第 8 条提及)

1. 本附件阐明制造商或其授权代表据以履行本附件第 2 点规定的义务，确保并声明 EuP 满足适用的实施措施要求的程序。合格声明可涵盖一个或多个产品，制造商必须保存该声明。

2. 制造商应编辑一份使对 EuP 能按适用的实施措施要求进行合格评定的技术文档。该文件特别应说明如下内容：

- (a) 关于 EuP 及其预期用途的一般描述；
- (b) 制造商进行相关环境评价研究的结果，和/或制造商在评估、文件化和决定产品设计方案时对环境评价文献或案例研究的引用；
- (c) 如果实施措施有要求，提供生态学档案文档；
- (d) 产品设计规格中与产品环境设计因素有关的各个要素；
- (e) 第 10 条提及的全部或部分采用的适用标准清单，如果第 10 条所述标准不适用或这些标准不能完全满足适用的实施措施要求，则提供为满足适用的实施措施要求而采取的解决方法的描述。
- (f) 根据附件 1 第 2 部分的规定，提供产品在环境设计方面的相关信息的副本；
- (g) 执行生态设计要求的测定结果，包括这些测定结果与适用的实施措施中所述的生态设计要求相比其符合性的详情。

2. 制造商应采取所有必要措施确保产品制造与第 2 点所述的设计规范和其所适用的措施的要求相一致。

附件 5

有关合格评定的管理体系

(在第 8 条中提及)

1. 本附件规定履行本附件第 2 点所述责任的制造商用以保证和声明其 EuP 满足适用的实施措施要求的程序。合格声明可涵盖一个或多个产品，且制造商必须遵守该声明。
2. 如果某 EuP 的制造商执行本附件第 3 点规定的环境要素，则某管理体系可能被用于该产品的合格评定。
3. 管理体系的环境要素
本点规定管理体系的要素及制造商藉以证明该 EuP 满足适用的实施措施的程序。

3.1 产品环境性能政策

制造商必须能证明（其产品）符合适用的实施措施要求。为改进产品整体环境性能，制造商还必须能为制定和审议产品环境性能的目标和指标制定一个框架。

如果实施措施要求，制造商通过设计和制造用以改进 EuP 整体环境性能及建立其生态学档案所采用的所有措施必须以书面程序和说明的形式系统而有序地备案。

这些程序和说明必须包括，特别是以下内容的充分表述：

- 用以证明 EuP 符合性的必备文件清单，并且一如相关—这些文件必须可以获得；
- 产品环境性能的目标和指标及有关其实施和保持的组织结构、职责、管理权限和资源分配；
- 生产后为验证产品性能是否符合环境性能指标而进行的检查和测试；
- 管理所需文件及确保其及时更新的程序；
- 验证管理体系的环境要素的实施和效果的方法。

3.2 计划

制造商将建立和维护：

- (a) 建立产品生态学档案的程序；
- (b) 考虑技术和经济要求下的科技选择，(制定)产品环境性能目标和指标；

(c) 达到这些目标的计划。

3.3 实施和文件

3.3.1 关于管理体系的文件应特别涵盖如下内容：

- (a) 定义并备案职责与机构以确保产品环境性能有效，其运作报告以供审议和改进；
- (b) 应建立用以说明设计管理、所实施的验证技术和设计产品时所用的程序和系统措施的文件；
- (c) 制造商应建立和维护表述管理体系的核心环境要素和管理所有必须文件的程序的信息。

3.3.2 关于 EuP 的文件应规定，特别是：

- (a) EuP 及其预期用途的一般描述；
- (b) 由制造商执行的相关环境评价研究的结果，和/或制造商评估，文件证明和决定产品设计方案时参考使用的环境评价文献或案例研究；
- (c) 如果实施措施要求，则提供生态学档案；
- (d) 表述执行生态设计要求的测定结果的文件，包括这些测定结果与适用的实施措施中所述的生态设计要求相比其符合性的详情；
- (e) 制造商应说明，特别应对所采取的标准予以明示；如果第 10 条所述标准不适用或这些标准不能完全满足适用的实施措施要求，则明示为确保与该要求相一致所用的方法；
- (f) 根据附件 1 第 2 部分的规定，提供产品在环境设计方面的相关信息的副本。

3.4 检查和矫正行动

- (a) 制造商必须采取所有必要措施以确保 EuP 与其设计规范和其适用的实施措施的要求相一致；
- (b) 对不符合的，制造商应建立和维护检查和反应程序，及由矫正行动产生的备案程序中的实施改变；
- (c) 制造商应至少每三年对其管理体系的环境因素进行一次全面的内部审核。

附件 6

合格声明

(在第 5 条第 3 款中提及)

欧共体的合格声明必须包括以下要素：

1. 制造商或其授权代表的名称和地址；
2. 足以用于明确鉴定的模型描述；
3. 如适当，所参考采用的协调标准；
4. 如适当，所用的其它技术标准和规范；
5. 如适当，为加贴适用的 CE 标志所参考的其他欧共体法律。
6. 制造商或其授权代表的约定授权人的签识。

附件 7

实施措施的内容

(在第 15 条第 8 款中提及)

实施措施应规定，特别是：

1. 明确定义所涵盖的 EuP 类型；
2. 所涵盖的 EuP 的生态设计要求、实施日期、阶段或过渡措施或过渡期；
 - 在通用生态设计要求的情况下，就确定的环境因素的改进进行评价时，以从附件 1 第 1.1 点与 1.2 点所述内容选取的相关阶段和方面，和从附件 1 第 1.3 点所述内容选取的参数示例为指南；
 - 在特殊生态设计要求的情况下，其水平；
3. 附件 1 第 1 部分提及的生态设计参数，当没有与其相关的必须的生态设计要求时；
4. 如果 EuP 的安装与所虑及的 EuP 环境性能直接相关，则其安装要求；
5. 所用的测定标准和 / 或测量方法；如可能，将采用已在《欧盟官方公报》上公布了参照号的协调标准；
6. 关于第 93 / 465 / EEC 号决定下的合格评定的具体内容；
 - 如果所应用的模式与模式 A 不同；选择特殊程序的主导因素；
 - 有关批准和 / 或第三方认证的相关标准；

对于同一个 EuP，如果在其他 CE 认证要求中规定有不同模式，对于有关要求，应以实施措施中定义的模式为主导；

7. 要求制造商提供的信息，特别是促进 EuP 与实施措施进行符合性检查所需的技术文件要素；

8. 过渡期的持续时间，在此期间各成员国必须过渡至允许与实施措施批准之日生效

法规相符的 EuP 在其境内投放市场和 / 或投入服务；

9. 考虑到技术进步的速度，对实施措施的评价日期和可能的修订。

附件 8

除基本的法定要求，即自我管理动议应与《条约》的所有规定（特别是欧盟的内部市场和竞争条例）以及欧共体的国际承诺，包括多边贸易规则相一致外，作为本指令的实施措施的替代方法，自我管理动议是否能予接受，可用如下准则（未尽清单）进行评估：

1. 公开参与

自我规范动议应在其准备和实施阶段对第三国经营方开放参与。

2. 附加值

自我规范动议应在改进所涵盖的 EuP 的整体环境性能方面产生(比“通常商业”更多的)附加值。

3. 代表性

参加自我规范行动的行业及其协会应代表相关经济部门的绝大多数，尽可能无异议。为确保对竞争条例的尊重，应谨慎行事。

4. 量化目标和阶段性目标

由利益相关方界定的目标应清晰明确，从定义明确的基础目标开始。若自我规范动议覆盖的时间跨度较长，可以包括中期目标。必须能用清晰和可靠的指标，以一个可以承担并且可靠的方式，对目标和中期目标的遵循加以监督。

5. 社会公众的参与

为确保透明度，应公布自我规范动议，包括通过使用互联网和其他散发信息的电子方式。

这一要求应同样适用于中期和最终监督报告。应邀请利益相关方，包括各成员国、行业、环境因素的非政府组织和消费者协会，对自我规范动议进行评议。

6. 监督和报告

自我规范动议应包括一个设计优良的监督体系，清晰地界定了行业和独立检验员的

职责。应邀请与自我规范动议的各方合作的专委会各部门监督目标的达成。

有关监督和报告的计划应详尽、透明和客观。在第 19 条第 1 款提及的欧委会的帮助下，专委会各部门仍应考虑该自愿性协定或其他自我规范措施的目标是否已实现。

7. 管理自我规范动议的成本—收益

管理自我规范动议的成本，特别是监督成本，与其目标和其他可行的政策工具相比，不应带来不成比例的行政负担。

8. 可持续性

自我规范动议应响应本指令的政策目标，包括一体化的方法，且应与经济和社会的可持续发展尺度相一致。保护消费者利益(健康，生活质量和经济利益)应纳入。

9. 动因的兼容性

如果其他因素和动因—市场压力、税收和国家层面的立法—对该承诺的参与者传达了与之相矛盾的信号，则自我规范动议不太可能达到预期结果。在这点上，政策的一致性必需的，应在评估动议效果时加以考虑。