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Broadening the scope of the Ecodesign Framework Directive. A case study on wooden products

Potential for the Circular Economy transition?



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KNOWLEDGE IN ACTION

1. Introduction

Legal framework

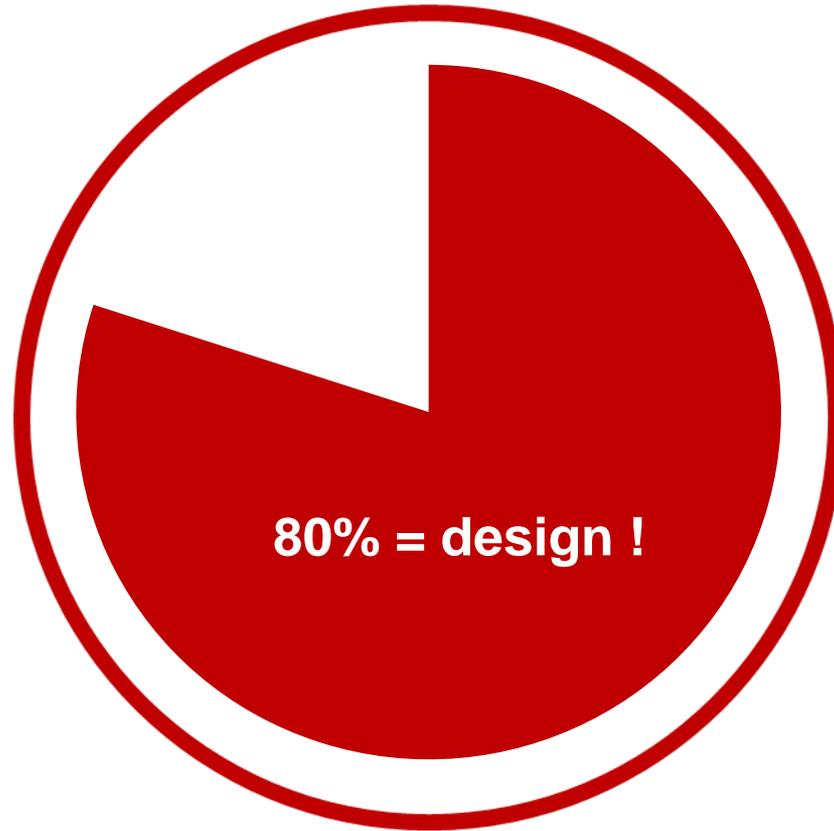
Ecodesign Framework Directive 2005 → energy-using product

Implementing Measures → obligatory ecological requirements

Ecodesign Framework Directive 2009 → energy-related product

Why not broaden its scope to all products?!?

1. Introduction



Content

1. Introduction

2. Problems

3. Approach study

4. Result of three Circular Economy benchmarks

A. Sustainably sourced wood

B. Non-toxic chemicals

C. Recycled wood

5. General results: conclusion

2. Problems

2015 Circular Economy Package

& 2016 'Third Working Programme 2016-2019'

1) predominantly on energy

X material-related

2) during the use stage

X life-cycle

3) only energy-related products

X all products?

Content

1. The Circular Economy
2. Problems
- 3. Approach study**
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3. Approach study

From problems to changes

- 1) material-related impacts → 'Circular Economy benchmarks'
- 2) occurring along the entire material life-cycle
- 3) of all products → wooden products

3. Approach study

Methodology

1. Identify **legal basis** for each CE benchmark
 - Relevant legislation
 - Ecodesign Framework Directive
2. Identify additional **features** for each CE benchmark
 - Learn from other legislation
3. Study **coherence** between legislation and legal framework for wooden products
 - Mapping exercise of the interplay: overlaps, gaps, synergies, contradictions...

3. Approach study

Methodology

1. Identify **legal basis** for each CE benchmark
 - Relevant legislation
 - Ecodesign Framework Directive

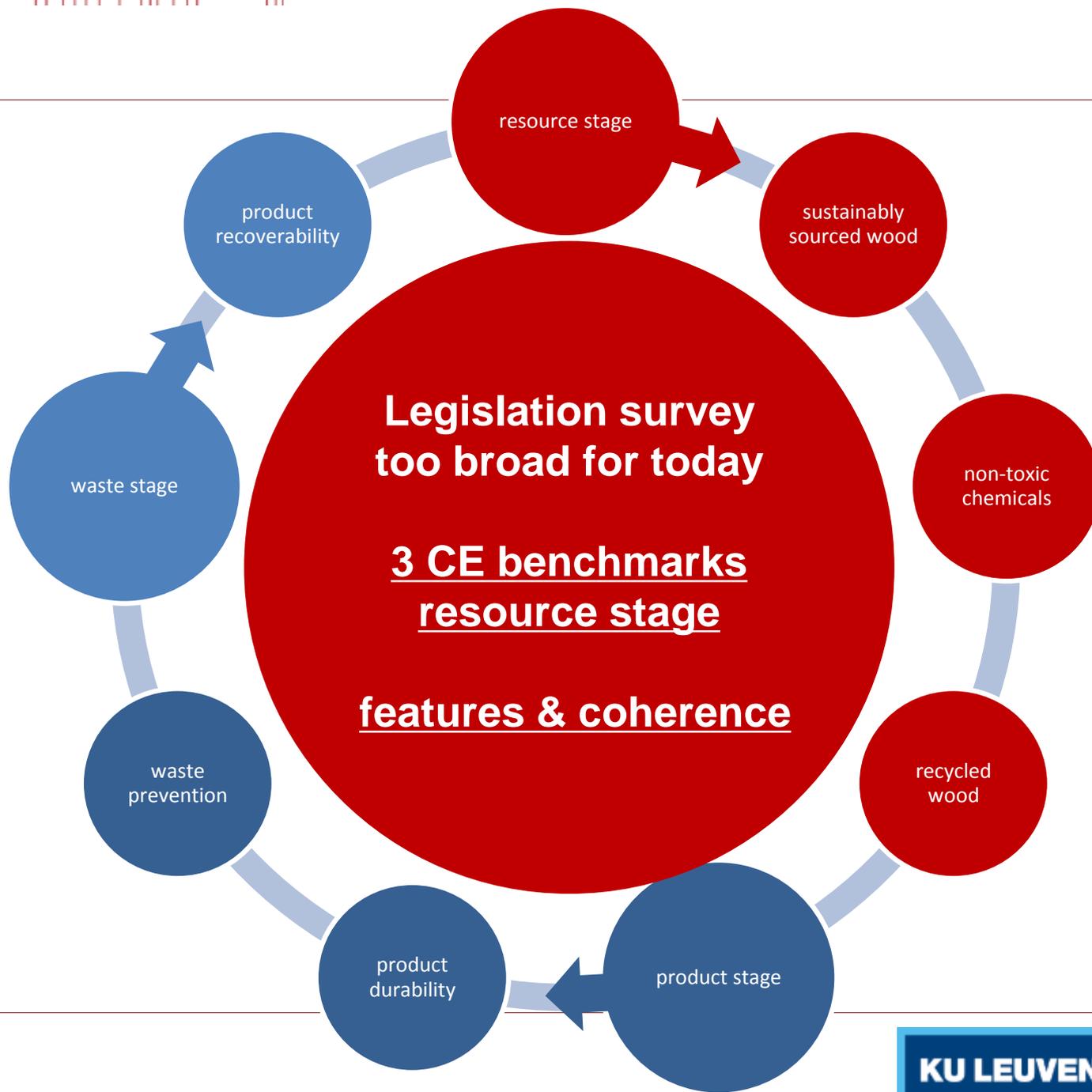
Conclusion: Ecodesign provides legal basis for all CE benchmarks

- Assumptions based on practice
- Assumptions **not** based on legal reasons
- Does not provide much guidance...

3. Approach study

Methodology

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3. Study **coherence** between legislation and legal framework for wooden products
 - Mapping exercise of the interplay: overlaps, gaps, synergies, contradictions...



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4.A. Sustainably sourced wood

Ecodesign Framework Directive 2009

EU Timber Regulation 2012

CLP Regulation 2008

REACH 2006

Biocidal Products Regulation 2012

Construction Products Regulation 2011

Ecolabel Regulation 2010 (3 EU Ecolabel criteria)

Public Procurement Directives 2014 (3 GPP criteria)

Waste Framework Directive 2008



4.A. Sustainably sourced wood - Features

- **Meaning** Sustainable Forest Management
 - **Timber** → legality instead of sustainability, national legislation directly applicable to forest management (Art. 2(h))
 - **Ecolabel** → 40% must originate from SFM certified forests fulfilling the criteria listed in 1998 Council Resolution on forestry (or recycled)
 - **Construction** → non-binding and vague 'environmentally compatible raw materials' but no specific SFM definition or requirements
- **Proof/information**: instruments to guarantee compliance
 - **Timber** → producers 'act due diligence', flexible approach to proof by existing structures of information supply/compliance, including non-regulatory mean such as certificates
 - **Ecolabel** → producers must have a policy for sustainable wood procurement and a system to trace/verify/track the SFM origin – certification
 - **Construction** → **CE** mark: from harmonized European product standards to national performance requirements

4.A. Sustainably sourced wood - Features

- **Meaning** Sustainable Forest Management
 - **Timber** → legality instead of sustainability, national legislation directly applicable to forest management (Art. 2(h))
 - **Ecolabel** → 40% of SFM certified forests fulfilling the criteria listed in Annex on forestry (or recycled)
 - **Construction** → environmentally compatible raw materials for requirements
 - **Proof/information** compliance
 - **Timber** → same approach to proof by existing structure, including non-regulatory measures
 - **Ecolabel** → same approach to proof by procurement and certification of sustainable wood
 - **Construction** → same approach to proof by certification of sustainable wood
- Features**
meaning of SFM + information trail as proof
- Learn**
existing broad term SFM + certificates

4.A. Sustainably sourced wood - Coherence

Ecodesign and...

- **Timber** → Ecodesign as a first step to broaden the scope of Timber
- **Ecolabel** → presumption of conformity ecodesign requirements, so no higher thresholds than Ecolabels – constant interaction. Today, no interplay (different products) but will be if scope widened
- **Construction** → two **CE marking** regimes: Implementing Measures v standards and national requirements, so despite the great resemblances there is a potential overlap which should be coordinated. BUT: **CE marking** via Construction prevails (Art. 8(3))

4.A. Sustainably sourced wood - Coherence

Ecodesign and...

- **Timber** → Ecodesign as a framework to broaden the scope of Timber
- **Ecolabel** → presumed to meet design requirements, so no higher thresholds for interaction. Today, no interplay (differentiated) widened
- **Construction** → Implementing Measures v standards and the great resemblances there is a potential initiated. BUT: **CE** marking via Construction

Learn
no construction products + interaction with voluntary measures + use standards and certification

4.B. Non-toxic chemicals

Ecodesign Framework Directive 2009

EU Timber Regulation 2012

CLP Regulation 2008

REACH 2006

Biocidal Products Regulation 2012

Construction Products Regulation 2011

Ecolabel Regulation 2010 (3 EU Ecolabel criteria)

Public Procurement Directives 2014 (3 GPP criteria)

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4.B. Non-toxic chemicals - Features

- **Approach: hazard** (intrinsic *properties* e.g. toxicity) v **risk** (*likelihood* and level of harm)
 - **CLP** → identification and communication hazards downstream
 - **Biocidal** → all wood preservatives require authorization, which is based on risk approach, but only after the approval of the active substance. Approval largely relies on CLP classification (hazard), but deviation is based on risk approach. Treated products also require prior approval of the active substance.
 - **Procurement** → the first GPPs refer to CLP classifications while the more recent refer to REACH (predominantly a risk approach)
- **Principles: preventive** (known harm) v **precautionary** (unknown harm)
 - **CLP** → explicitly rejected but still some elements precaution, e.g. ECHA's risk assessment as an opinion for proposal classification & labelling
 - **Biocidal** → precautionary in active substance and authorization
 - **Procurement** → refers to CLP and REACH

4.B. Non-toxic chemicals - Features

- **Approach: hazard** (intrinsic *properties* e.g. toxicity) v **risk** (*likelihood* and level of harm)
 - **CLP** → identification and classification of hazards downstream
 - **Biocidal** → all work requires the authorization, which is based on risk and not on hazard approval of the active substance. Approval requires a risk assessment (classification (hazard), but deviation for low risk products also required. Low risk products also require prior approval
 - **Procurement** → refers to hazard classifications while the risk approach more recent
- **Principles: precaution** (prevention of harm)
 - **CLP** → explicit precautionary principle, e.g. ECHA's risk assessment proposal classification & labelling
 - **Biocidal** → precautionary principle for substance and authorization
 - **Procurement** → refers to CLP and REACH

Features
hazard/risk
approach + legal
principles

Learn
risk approach +
precaution

4.B. Non-toxic chemicals - Coherence

Ecodesign and...

- **CLP** → Ecodesign explicitly refers to the 'CLP Regulation and other legislation' to be used in Implementing Measures (such as REACH and Biocidal)
- **Biocidal** → precautionary principle requires consistency with similar already taken in similar circumstances and no double counting: wooden products are already regulated by Biocidal (lex specialis, which uses CLP and REACH)
- **Procurement** → there is no clear interplay, but one could use procurement to act more responsively to new scientific evidence than the Ecodesign framework

4.C. Recycled wood

Ecodesign Framework Directive 2009

EU Timber Regulation 2012

CLP Regulation 2008

REACH 2006

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4.C. Recycled wood - Features

- **Terminology** and **categories** (quality and/or pre- post-user)
 - **Waste** → waste and recycling definitions, but no subcategories
 - **Ecolabel** → not obliged to address recycled content but labels do it nevertheless: using waste-related definitions incorrectly and no subcategories
 - **Procurement** → terminological difference, 'recycled' always paired with 'reused', no subcategories
- **Proof/information**: instruments to guarantee compliance
 - **Waste** → separate collection and EPR + great reliance on product legislation and product standards
 - **Ecolabel** → system in place to trace/verify the origin of the recycled wood, *at least* in compliance with the European Panel Federation standard for delivery conditions of recycled wood. Since SFM relies on certificates for the system, presumably recycled content as well (e.g. FSC)
 - **Procurement** → 'the greater the % in volume, the greater the award points' and a core criterion '% by weight'. Bidders must provide a signed declaration 'or other appropriate means/documentation': self-declarations and/or certification

4.C. Recycled wood - Features

- **Terminology** and **categories** (quality and/or pre- post-user)
 - **Waste** → waste and recycling definitions, but no subcategories
 - **Ecolabel** → not obliged to show recycled content but labels do it nevertheless: misuse of definitions incorrectly and no subcategories
 - **Procurement** → 'recycled' always paired with 'certified'
- **Proof/information supply** (compliance)
 - **Waste** → strong reliance on product legislation
 - **Ecolabel** → reliance on product legislation the origin of the recycled wood. The European Panel Federation states that the use of recycled wood. Since SFM relies on certification of recycled wood. Since content as well (e.g. certification presumably recycled)
 - **Procurement** → 'the greater the % in volume, the greater the award points' and a core criterion '% by weight'. Bidders must provide a signed declaration 'or other appropriate means/documentation': self-declarations and/or certification

Features
correct use of
terminology + proof
of content and
information supply x
categories

Learn
use Waste definitions
+ standards and
certificates

4.C. Recycled wood - Coherence

Ecodesign and...

- **Waste** → Ecodesign sometimes uses incorrect terminology, e.g. for recycling, and/or does not always refer to the Waste Framework Directive
- **Ecolabel** → presumption of conformity with Implementing Measures, so in Ecodesign no higher thresholds than Ecolabels – constant interaction. Today, no interplay (different products) but will be if scope widened
- **Procurement** → procurement can be used to stimulate the recycling market even more, so in Ecodesign no higher thresholds than Ecolabels – constant interaction

4.C. Recycled wood - Coherence

Ecodesign and...

- **Waste** → Ecodesign sometimes uses incorrect terminology, e.g. for recycling, and/or does not refer to the Waste Framework Directive
- **Ecolabel** → prevents the use of voluntary measures complementing Measures, so in Ecodesign interaction. Too constant but will be if scope widened
- **Procurement** → stimulates the recycling market even more, sets thresholds than Ecolabels – constant interaction

Learn:
not many measures
+ use Waste as a
reference law +
interaction with
voluntary measures
+ use standards
and certification

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5. General results: conclusion

Recap: Ecodesign Framework Directive provides for a legal basis for all **Circular Economy benchmarks**

However, **features** come into play per CE benchmark:

- **Sustainably sourced wood:** terminology, proof/information
- **Non-toxic chemicals:** legal principles, proof/information
- **Recycled wood:** terminology, categories, proof/information
- **Product durability:** terminology, categories, proof/information
- **Waste prevention:** legal principles, categories
- **Product recoverability:** legal principles, terminology, categories, proof/information

5. General results: conclusion

Use features in regulatory framework for **coherence**:

- **Terminology** → challenge is using the correct definitions and/or to refer correctly: refer to horizontal laws
- **Proof/information** → flexible approach but great reliance on private parties: use standards and certificates
- **Categories** → recommended *but* could frustrate terminology and proof/information: first check terminology and proof/information
- **Environmental legal principles** → principles are explained differently in each situation, but establish common foundations
- **Life-cycle thinking** → in nearly all legislation: environmental legal principle in the making?!?



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A case study on wooden products**

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5. General results: conclusion

YES, broadening Ecodesign to wooden products, because:

- A legal basis is provided → **material-related & life-cycle thinking**
- It addresses Circular Economy benchmarks → However, there is much more: features and coherence

BUT, similar studies are required for other product groups to see **which additional features** can be identified, and to see if the **same results on coherence** are obtained so as to use them in the future in the Ecodesign Framework Directive

Questions? Spørgsmål?

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