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European Commission

INCEPTION IMPACT ASSESSMENT

Inception Impact Assessments aim to inform citizens and stakeholders about the Commission's plans in order to allow them to provide feedback on the intended initiative and to participate effectively in future consultation activities. Citizens and stakeholders are in particular invited to provide views on the Commission's understanding of the problem and possible solutions and to make available any relevant information that they may have, including on possible impacts of the different options.

TITLE OF THE INITIATIVE	Sustainable Products Initiative
LEAD DG (RESPONSIBLE UNIT)	DG ENV, UNIT B1 SUSTAINABLE PRODUCTION, PRODUCTS & CONSUMPTION DG GROW, UNIT C1 CIRCULAR ECONOMY AND CONSTRUCTION DG ENER, UNIT C4 ENERGY EFFICIENCY, BUILDINGS AND PRODUCTS
LIKELY TYPE OF INITIATIVE	Legislative proposal
INDICATIVE PLANNING	Q4 2021
ADDITIONAL INFORMATION	https://ec.europa.eu/environment/circular-economy/index_en.htm

The Inception Impact Assessment is provided for information purposes only. It does not prejudge the final decision of the Commission on whether this initiative will be pursued or on its final content. All elements of the initiative described by the Inception impact assessment, including its timing, are subject to change.

A. Context, Problem definition and Subsidiarity Check

Context

The ''European Green Deal''[1] is a growth strategy to transform the EU into a fairer and more prosperous society, with a modern, competitive, climate neutral and circular economy. As stated in the Commission's strategic recovery package,[2] in response to the dramatic and unprecedented effects of the COVID19 crisis, a collective and cohesive recovery that accelerates the twin green and digital transitions will only strengthen Europe's competitiveness, resilience and position as a global player. We must invest in protecting and creating jobs and in driving our competitive sustainability by building a fairer, greener and more digital Europe. We must repair the short-term damage from the crisis in a way that also invests in our long-term future.

The March 2020 Circular Economy Action Plan (CEAP) provides a future-oriented agenda for achieving a cleaner and more competitive Europe in co-creation with economic actors, citizens and civil society organisations. It contributes to achieving 2030 climate and energy efficiency goals, climate neutrality by 2050 and decoupling economic growth and well-being of EU citizens from environmental and climate impacts while ensuring the long-term competitiveness of the EU and leaving no one behind. It announces a sustainable product policy legislative initiative to make products[3] fit for a climate neutral, resource efficient and circular economy, reduce waste and ensure that the performance of frontrunners in sustainability progressively becomes the norm.

The initiative will aim to set out the EU policy framework[4] necessary to achieve this objective. For this, the scope of the Ecodesign Directive needs to be widened beyond energy related products, and made applicable to the broadest possible range of products. Through this revision and, where necessary, complementary legislative proposals, the Commission will establish sustainability[5] principles and other mechanisms to regulate sustainability-related aspects in a wide range of product related instruments, while continuing to respect the EUs commitments in international trade agreements, including in the World Trade Organization context.

This initiative will be developed in close coordination with other initiatives announced in the CEAP, in particular the initiative on empowering consumers for the green transition and the initiative on the substantiation of environmental claims using product and organisational environmental footprint methods. Together these initiatives will seek to establish a coherent policy framework whereby sustainable goods, services and business models become the norm and consumption patterns are more sustainable.

Problem the initiative aims to tackle

[1] COM (2019) 640
[2] COM (2020) 456
[3] In the context of this initiative, 'products' include goods and services.
[4] For an overview of the EU product policy framework and its contribution to circular economy, see SWD (2019) 91: Sustainable Products in a Circular Economy
[5] Sustainable, in the context of this IIA, means social, economic and environmental sustainability

Without policy intervention, by 2050 the world population is expected to be consuming resources at a rate three times higher than the earth can replenish. Global consumption of materials such as biomass, fossil fuels, metals and minerals is expected to double by 2060, while annual waste generation is projected to increase by 70% by 2050. Production, consumption and waste linked to products are responsible for pollution and for around 40% of global greenhouse gas emissions.

The Sustainable Product Policy Initiative aims at correcting the following market and regulatory failures:

1. Product-related externalities are not fully internalised: the linear production and consumption pattern of 'take-make-use-dispose' does not provide producers with sufficient incentives along the supply chains to make their products more sustainable. The average lifespan of many products has become shorter over the last decades[6]. Many products break too quickly, many cannot be easily and safely reused, repaired or recycled, and many are made for single use only. Furthermore, there are concerns over the environmental impact and working conditions in which materials are sourced and/or products produced.
2. EU initiatives and legislation only partially address sustainability aspects of products, either on a mandatory or voluntary basis. The Ecodesign Directive successfully regulates energy efficiency and some circularity features of energy-related products covered by implementing measures. At the same time, instruments such as the EU Ecolabel or the EU green public procurement (GPP) are broader in scope but have reduced impact due to the limitations of voluntary approaches. In fact, there is no comprehensive set of requirements to ensure that all products placed on the EU market become increasingly sustainable.
3. The lack of reliable information on sustainability along value chains related to many products placed on the EU market *de facto* reducing the ability of economic operators upstream in the value chain to offer more sustainable products, and for consumers and procurers to choose products with the lowest environmental footprint.

Basis for EU intervention (legal basis and subsidiarity check)

As the proposal will consider requirements for the placing on the EU market of products, action needs to be taken at EU level. This brings clear benefits in terms of economies of scale, reducing regulatory barriers and administrative burden and improving the functioning of the internal market through provision of homogenous information and a level playing field. At the same time, the single market provides a critical mass enabling the EU to set global standards in product sustainability and to influence product design and value chain management worldwide.

The necessity to prevent fragmentation of the internal market when Member States would take their own initiatives, means that the initiative will be based on article 114 (internal market) of the Treaty of the Functioning of the European Union (TFEU). Depending on the need for other legislative initiatives or amendments besides amending the Ecodesign directive, article 192(1) TFEU (environment) may also play a role. The impact assessment will help determine which objectives can be achieved through the revision of the Ecodesign Directive and which (if any) would require further initiatives.

B. Objectives and Policy options

In line with the Green Deal objectives, EU product policy needs to contribute to keeping climate and environmental impacts linked to resource and energy use, production and use of products within planetary boundaries. This means reducing the overall life-cycle climate and environmental footprint of the products placed on the EU market, achieving longer product lifetimes for example through more durable and reparable products, increasing circular material use rate, reducing waste and achieving higher recycling rates.

This initiative will aim to provide the basis for ensuring high environmental performance of all products and, to the extent possible and relevant, services on the EU market, by setting out sustainability principles and specific requirements linked to environmental and, where appropriate, social aspects[7]. In coordination and synergy with other Green Deal and CEAP initiatives, it will propose the necessary changes to the EU legal framework to achieve the objectives set out in the Circular Economy Action plan 2020[8].

Amongst other things, this will require improved information flows through, inter alia, mobilising the potential of digitalisation of product information, including solutions such as digital passports and tagging.

An impact assessment will be performed to assess which combinations of measures will best achieve the objectives. All combinations will include the widening of the scope of the Ecodesign directive to cover a wide

[6] See for example: EEB (2019) Coolproducts don't cost the earth - full report. www.eeb.org/coolproducts-report

[7] This could build on work done in ILO and OECD context and would need to keep good coherence with the sustainable corporate governance initiative addressing human rights, environmental duty of care and mandatory due diligence across economic value chains as announced in the Biodiversity Strategy

[8] These objectives include improving product durability and reparability, addressing hazardous chemicals and premature obsolescence, increasing recycling and recycled content, setting incentives to reward products and products-as-a-service based on their sustainability performance.

range of products, beyond energy related products. This will enable the setting at EU level of appropriate minimum sustainability and/or information requirements for specific groups of products, giving priority to addressing product groups identified in the context of the value chains featuring in the Action Plan, such as electronics, ICT and textiles but also furniture and high impact intermediate products such as steel, cement and chemicals. In addition, the following measures will be considered:

- establishing overarching product sustainability principles;
- establishing EU rules to make producers responsible for providing more circular products and intervening before products can become waste (for example providing products as a service, providing repair service/or ensuring spare parts availability);
- establishing EU rules for setting requirements on mandatory sustainability labelling and/or disclosure of information to market actors along value chains in the form of a digital product passport;
- establishing EU rules for setting mandatory minimum sustainability requirements on public procurement of products;
- requirements to address social aspects throughout the product lifecycle as part of sustainability principles and requirements, where appropriate and feasible;
- measures on production processes, for example to facilitate recycled content or remanufacturing and to track the use of hazardous substances in such processes;
- Measures to ban the destruction of unsold durable goods.

Some of these measures would be of horizontal nature, while others would target specific sectors in particular. The addressees of the legal obligations under the different measures might also differ. Particular attention will be given to the operational feasibility, minimizing related administrative burdens and facilitating implementation and enforcement. The measures will be assessed against a 'business as usual' baseline option (in which no policy changes are introduced) to identify the best combination of measures to achieve the objectives set out in the CEAP. In doing so, particular attention will be paid to coherence with existing relevant EU policy instruments and other ongoing new initiatives[9].

C. Preliminary Assessment of Expected Impacts

Likely economic impacts

- EU measures would facilitate a more harmonised single market with incentives for more sustainable and innovative products across the whole EU. This provides strong economic potential for both EU and non-EU operators that offer sustainable products by reducing market fragmentation due to individual Member State initiatives.
- Market incentives for sustainable products would increase the relative competitiveness of sustainable products vis-à-vis unsustainable products. Both EU and non-EU producers, retailers and other economic operators whose business model currently depends on unsustainable products will have to make changes or accept lower sales.
- Measures to reduce negative effects on climate and the environment related to materials and production may at least in the short term lead to extra costs for producers and/or retailers, which could in turn lead to purchasing price increases for consumers, , but the corresponding costs borne by society related to those negative effects is reduced. Economies of scale mean the price difference in the longer term will be smaller as sustainable products become more mainstream and the extra costs are shared out over a larger number of products.
- Better information along value chains is expected to facilitate enforcement by public authorities of new and existing product related legislation (e.g. REACH) and contribute to ensuring a level playing field for EU-manufactured and imported products, thus increasing the competitiveness of EU industry.

Likely social impacts

- Improved recyclability and increased recycled content is expected to provide more jobs and added value in the recycling sector.
- Improved durability and reparability of products is expected to boost jobs in the reuse and repair sectors, in particular locally / inside the EU, strengthening local business structures.
- Better information along value chains on sustainability performance of products is expected to (further) boost demand for sustainable products, reuse, repair, remanufacturing and recycling, with associated benefits in growth and jobs.
- As explained above, in the short term some purchasing price increases for consumers could be expected.

[9] Including several initiatives announced in the European Green Deal and the Circular Economy action plan, such as the 'substantiation of environmental claims' initiative, the 'empower consumers for the green transition' initiative, the 'Farm to Fork' strategy, the Biodiversity strategy and the Chemicals Strategy for Sustainability, as well as ongoing developments such as the review of the Energy Efficiency Directive including its article 6 and work in the context of the EU Ecolabel regulation, the Waste Framework Directive and directives related to specific product groups and related waste aspects such as batteries, electronics, packaging and end-of-life vehicles.

However, in the longer term, it is expected that increased product lifetimes reduce overall purchasing costs, and running costs (including utilities bills where appropriate) are reduced because more efficient products use less resources such as energy and water.

Likely environmental impacts

The initiative aims to significantly reduce the environmental pressures (e.g. resource extraction, energy use, greenhouse gas and other emissions, environmental pollution, water use) and the associated environmental impacts (e.g. biodiversity loss, global warming, water scarcity, human and ecosystems toxicity) associated with current production and consumption patterns.

As such, it will contribute greatly to the European Green Deal objectives. It will also contribute to the achievement of the Sustainable Development Goals (SDG), especially SDG 12 on responsible consumption and production.

Likely impacts on fundamental rights

Depending on the options chosen, the initiative holds the potential to contribute to achieving a number of objectives contained in the Charter of Fundamental Rights of the EU, including fair and just working conditions, prohibition of child labour, environmental protection and consumer protection.

Likely impacts on simplification and/or administrative burden

Minimum sustainability and information requirements on products are likely to have an administrative burden on economic operators involved in placing products on the EU market. However, taking these measures at EU level may lead to simplifications for manufacturers active on several national markets and preserve a level-playing field for all manufacturers. It may also clarify conflicting provisions existing in different pieces of EU legislation. It will also help deploy European standards internationally and stabilise European economy in general. The implementation costs for companies will also largely depend on the availability of IT tools, secondary data, helpdesk and training. The impact assessment will quantify the possible administrative burden linked to the policy measures to the extent possible and identify, where appropriate, the possibilities for minimising it, for example with digital solutions.

D. Evidence Base, Data Collection and Better Regulation Instruments

Impact assessment

An impact assessment will be prepared to identify options consisting of different combinations of the measures mentioned above and assess the impacts of those options against a 'business as usual' baseline. Particular attention will be given to impacts on SMEs. The impact assessment will draw on all the available evidence and on the lessons drawn in previous evaluative exercises. It will carefully analyse the monitoring and evaluation arrangements for the new measures.

Evidence base and data collection

A large evidence base exists, including, but not limited to:

- A Commission Staff Working document on 'Sustainable Products in a Circular Economy' and support study
- Ecodesign evaluation, Working Plans and studies supporting these, and a 2020 Special Report by the European Court of Auditors[10]
- Evaluation of the Restriction of Hazardous Substances (RoHS) Directive and related studies[11]
- Product and Organisational Environmental Footprint (PEF/OEF) pilots and related studies[12]
- Study on the review of the Methodology for Ecodesign of Energy-related Products (ongoing)
- EEPLIANT programmes on market surveillance compliance in Member States
- Deliverables from the horizontal standardisation request M/543[13] on "material efficiency"

Consultation of citizens and stakeholders

A public consultation will be launched in the fourth quarter of 2020 to gather input from citizens and stakeholders. The questionnaire for the public consultation will be translated into all EU languages and published on the 'Have your say' website. Respondents may reply in any of the official EU languages. Further consultations will be carried out to gather input from and discuss policy options with a wide range of stakeholders, for example through workshops, conferences, webinars or other means.

[10] ECA Special Report 2020/001: EU action on Ecodesign and Energy Labelling: important contribution to greater energy efficiency reduced by significant delays and non-compliance

[11] See https://ec.europa.eu/environment/waste/rohs_eee/index_en.htm

[12] https://ec.europa.eu/environment/eussd/smgp/PEFCR_OEFSR_en.htm

[13] https://ec.europa.eu/growth/tools-databases/mandates/index.cfm?fuseaction=search.detail&id=564#

Will an Implementation plan be established?
Yes, depending on the preferred option, an implementation plan will help Member States set up the needed policy and legislative measures at the national level to comply with the revised EU legislation and implement and enforce the new policies.