ENVIRONMENTAL INFORMATION DISCLOSURE IN THE EUROPEAN UNION: BETWEEN SOFT AND HARD LAW

Gjalt HUPPES
CML, Leiden University
Netherlands
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Contents

1. The case of hard wood in the Netherlands
2. Hard law, soft law and no law
3. The rationale(s) for environmental information
4. No law: exploding diversity
5. Hard law: inadequate beyond the firm
6. Soft law: covers softer subjects increasingly hard
7. Outlook and Conclusions
The Dutch Timber Procurement Assessment System (TPAS)

The Dutch Timber Procurement Policy is based on the Dutch Procurement Criteria for timber which have been approved by the Dutch Minister of Environment. The Procurement Criteria consist of two standards:

Sustainable Forest Management (SFM);
Chain-of-Custody and Logo Use (CoC).

The SFM standard requires that forests are managed according to the three pillars of sustainability: people, planet and profit. The CoC standard requires that certified timber can be traced through the supply chain, and that rules for administration and on-product claims are clear and verifiable.

In addition, TPAC has developed standards concerning process criteria for certification systems and meta-systems:

Development, Application and Management of certification systems (DAM);
Procedure on Endorsement of certification systems by a Meta-system (PEM).

These standards require that systems operate in a way that is transparent, verifiable and accountable.

Note: For the purpose of this document, if reference is made to the Dutch Procurement Criteria, this also includes the DAM standard and, if relevant, the PEM standard.

Organisations such as PEFC-International, that do not operate a certification system themselves, but instead endorse national or regional certification systems based on a generic standard.

→ Linking private and public systems
Timber Procurement Assessment System (TPAS)

The structure of standards
The standards consist of principles and criteria:

- SFM standard: 9 principles and 39 criteria;
- COC standard: 3 principles and 13 criteria;
- DAM standard: 5 principles and 24 criteria;
- PEM standard: 1 principle and 17 criteria.

The complete set of principles and criteria are included in annex III and IV.

TPAS: The case of Malaysian Wood

- Sales of certified wood to public bodies in the Netherlands of around 150 Million Euro per year
- All purchases should be legal, complying with EU and national regulations
- At least 50% of public purchases should be adequately certified
- Certification upheld in court by environmental groups, court case won
- No certification = no sales
  However, new procedures ongoing
Conclusions on TPAS

- Active link between public and private systems realised
- Private parties to supply well defined environmental information if they want to sell, including supply chain info
- Information public, directly or indirectly
- Detailed information systems for much public procurement, backed by EU regulations and procedures
- For forestry, advanced role for Netherlands and Great Britain
- Housing next main example, public housing (BEES in the US)
- Spread to other European countries intended
- EU support/pressure coming, in very many different ways.

The rationale(s) for environmental information

- Improve environmental performance of society
  - Shifts in purchases
    - Final; Supply Chain
    - Products; Life Style
  - Shifts in behaviour
  - Shifts in Research and R&D
  - design
  - Shifts in investment
- Requirements on environmental information
  - Linked to product function (LCA-type)
  - Linked to value creation EcoEfficiency-type
  - Micro linked to macro: diverse mechanisms
A glorious future

GDP per Head of Population

Index: 100

Environmental Impact per Head of Population

Time

Conceptual: Going Green, for improved EcoEfficiency

Micro economic mechanisms:
- supply, demand, cross elasticities, etc.

Meso and macro economic mechanisms:
- Income effects; partial equilibrium models (simultaneous markets); CGE, statistical models, dynamic IO; etc.

Changes considered, taken together

EE as environmental intensity of production:
- Improved EE

Time

Single change

Initial effect

Full market effects

Full effects (All rebounds)

prediction
Requirements on relevant info (supplied soft or hard)

- Performance prediction (time dependent): micro → meso → macro
- Performance indicators:
  - Economic; Environmental; Social
- Proxy indicators (if real indicators difficult):
  - Procedural; mass; rare resources; improvement potential (learning curves)
- *This is (in my view) what the EU wants* (with lots of *noise* in between)

No Law: exploding diversity

- Private rules on corporate social responsibility
- Private labelling schemes
- Diversity increasing: 34 global schemes
- “Convergence and Verification Required”
- Global Reporting Initiative: 2 options for reporting:
  - Informally, ‘in the spirit’ (no problems, hardly effects)
  - In accordance: Reporting cost (without cost of data gathering) for Downing (2003) 1 million $. 
- Outlook problematic:
  - All schemes referring to others;
  - Voluntary convergence hardly possible.
Hard law: inadequate beyond the firm
Examples: E-PRTR and Reach

- Aarhus Convention, implemented in EU, EPER and E-PRTR
  Link to location hard, link to economic activity lacking; no upstream and downstream linkages possible; local concentrations soft linked; adding up to regional and country totals OK.
- REACH
  Very partial environmentally, increasingly covering downstream linkages and total volumes (potentially) involved. No link to economic activities.
- Many others bordering like BAT regulations (“Seville Process”)

Conclusions:
- Not so relevant for public information, except local and permitting
- Could be improved, requiring fundamental adaptations.

6. Soft law, increasingly hard:
   ILCD

ILCD Handbook - General guide for Life Cycle Assessment - Detailed guidance

- The Joint Research Centre of the European Commission has published this International Reference Life Cycle Data System (ILCD) Handbook, a handbook for businesses – Life Cycle Assessment (LCA) experts - and public authorities on how to conduct life cycle assessments to calculate a product's total environmental impact.

See: http://www.buildup.eu/publications/9100
ILCD Continued

ILCD format developer package
• The development, documentation and publication of LCI data sets (both unit process and LCI results) are supported by the ILCD data set format that also serves as common data exchange format for the ILCD Data Network; the ELCD database equally is made available in the ILCD format. An IT developer package of the ILCD format is accessible via http://lct.jrc.ec.europa.eu/assessment/tools).
• Similar for users

6. Soft law, increasingly hard:
EMAS

EMAS: EU Eco-Management and Audit Scheme
• Rules for allowing voluntary participation: Annex VI, 6.1: “... shall consider all environmental aspects of its activities, products and services .... “
• Becoming dominant over private schemes? Forcing private schemes?
Soft law: Corporate Sustainability and Corporate Social Responsibility

From:  


[my emphasis, GH]

What's the EU policy on corporate sustainability? The Commission decided to **combine compliance with law and a Voluntary Approach** by the groups/stakeholders involved after the comments made on its Green Paper "Promoting a European framework for Corporate Social Responsibility". The main issue is now to promote corporate sustainability in SMEs and to avoid artificial greening of the business performance.

To promote convergence and transparency of CSR practices and tools, the Commission wants to determine guidelines for:

- codes of conduct
- management standards (Total Quality Management Systems, Eco-Management and Audit Scheme..)
- measurement, reporting and assurance
- labels
- socially responsible investment (development by rating organisation on criteria and indicators)

To do so, the Commission has launched a **EU Multi-stakeholder forum on CSR**. This forum plays a key-role. It is expected to determine objective evaluation methods and validation tools such as 'social labels'.

Soft low hardening: SCP-regulatory framework

**Sustainable Consumption and Production and Sustainable Industrial Policy Action Plan (2008)**

**Quote:** “The core of the Action Plan is a dynamic framework to **improve** the energy and environmental **performance** of products and foster their uptake by consumers. This includes setting ambitious standards throughout the Internal Market, ensuring that products are improved using a systematic approach to **incentives and procurement**, and **reinforcing information to consumers** through a more coherent and simplified labelling framework, so that **demand** can **underpin** this policy. The approach will address products that have significant potential for reducing environmental impacts.”

SCP linked in

- Buzz words: EcoEfficiency; EcoInnovation; Green Growth
- Conceptual frameworks filled in, substantial amounts of research in FP7 (EU 7th Framework Programme) starting, both at applied and theoretical levels.
- LCA (Life Cycle Assessment), Micro, and EE-IOA (Environmentally Extended Input Output Analysis) Meso/Macro, increasingly linked (JRC-IES and EUROSTAT; EIPRO study; NAMEA framework)
- SCP embedded in broader policy frameworks
- EU competitiveness always added.

Outlook and Conclusions

- Private law, as non-law, becoming non-existent
- Hard law: not well able to link to combined current economic and environmental performance not well able to link to improvement on future performance
- Soft low increasingly hard, by policy interlinkages, as in hardwood example.
- Divergent developments to be realigned: Revision of the Sustainable Consumption and Production Action Plan foreseen in 2012.