II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 15 September 1993

on a standard contract covering the terms of use of the Community eco-label

(93/517/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 880/92 of 23 March 1992 on a Community eco-label award scheme (1), and in particular Article 12 thereof,

Whereas Article 12 of Regulation (EEC) No 880/92 provides that the competent body shall conclude a contract, covering the terms of use of the label, with each applicant, and further provides that to that end a standard contract shall be adopted;

Whereas it is appropriate, in order not only to avoid distortions of competition but also to ensure that the interests of consumers and users are protected, that the terms of use of the label should be uniform throughout the Community;

Whereas, however, the competent bodies should be able, subject to compatibility with Regulation (EEC) No 880/92, to include additional provisions in the contract;

Whereas it is appropriate that the contract should include provisions for compliance monitoring which should allow the competent body to ensure that the label is used only for products which meet the objectives specified in Article 1 of Regulation (EEC) No 380/92 and the principles specified in Article 4 of the said Regulation and are in accordance with the terms of the contract; whereas it is further appropriate that, in cases of non-compliance with the objectives and principles of the said Regulation and the terms of the contract, provisions should be made for suspension or withdrawal of the award of the label;

Whereas the measures set out in this Decision are in accordance with the opinion of the Committee set up pursuant to Article 7 of Regulation (EEC) No 880/92,

HAS ADOPTED THIS DECISION:

Article 1

The contract which shall be concluded between the competent body and each applicant in accordance with Article 12 of Regulation (EEC) No 880/92 shall be in the form set out in the Annex to this Decision.

Article 2

Without prejudice to Article 1, the competent body may include in the contract additional provisions provided that such additional provisions are compatible with Regulation (EEC) No 880/92.

In that case, the competent body shall forward the text of the said contract to the Commission for examination as to its compatibility with Regulation (EEC) No 880/92.

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 15 September 1993.

For the Commission

Yannis PALEOKRASSAS

Member of the Commission

(1) OJ No L 99, 11. 4. 1992, p. 1.

ANNEX

STANDARD CONTRACT COVERING THE TERMS OF USE OF THE COMMUNITY ECO-LABEL

PREAMBLE

The Competent Body ..... (full title) hereafter called 'the Competent Body', registered at ..... (full address), which for the purposes of the signature of this contract is represented by ..... (name of person responsible),

and

..... (full name of Holder), in his capacity as manufacturer or importer, whose official registered address in the European Community is ..... (full address), hereafter called 'the Holder', represented by ..... (name of person responsible),

have agreed the following with regard to the use of the Community eco-label:

Article 1

RIGHTS AND OBLIGATIONS

1.1. The Competent Body grants the Holder the right to use the eco-label for his product ..... registration number(s) ..... and/or as described in the annexed product specifications, produced or imported at ..... (premises), which conforms to the relevant product group criteria in force for the period ....., adopted by the Commission of the European Communities on ..... (date), published in the *Official Journal of the European Communities* of ..... (full reference), and annexed to this contract.

1.2. The eco-label shall be used only in the form and colour laid down in the eco-label specifications provided by the Competent Body and annexed to this contract and shall be clearly visible. The right to use the eco-label does not extend to the use of the eco-label as a component of the trademark.

1.3. The Holder shall ensure that the product to be labelled complies throughout the duration of this contract with all the terms of use and provisions set out in this contract and the product group criteria and eco-label specifications referred to in the Annexes to this contract which are applicable at the time in question.

Article 2

ADVERTISING

2.1. The Holder shall refer to the award of the eco-label only in relation to the product referred to in Article 1.1. of this contract.

2.2. The Holder shall not advertise or make any statement or use any label or logo in a way which is false or misleading or which results in confusion or calls into question the integrity of the eco-label.

2.3. The Holder shall be responsible under this contract for the manner in which the eco-label is used in relation to his product, especially in the context of advertising.

Article 3

COMPLIANCE MONITORING

3.1. The Competent Body, including its agents authorized for such purpose by the Competent Body, may undertake all or any necessary investigations to monitor the on-going compliance by the Holder with both the product group criteria and the terms of use and provisions of this contract. To this end, the Competent Body may request, and the Holder shall provide, any relevant documentation to prove such compliance.

3.2. Further, the Competent Body, including its agents authorized for such purpose by the Competent Body, may, at any reasonable time and without notice, request, and the Holder shall grant, access to the premises as stated in Article 1.1. or any part thereof, for the purposes mentioned in paragraph 1 of the present Article.

3.3. The Holder shall be liable for the reasonable costs incurred by the Competent Body under this Article.

Article 4

CONFIDENTIALITY

4.1. Except as required by Council Regulation (EEC) No 880/92, and in particular Articles 10 and 13 thereof, the Competent Body and any of its authorized agents may not disclose, or use for any purpose unconnected with this contract, information to which they have gained access in the course of assessing a product with a view to the award of the eco-label or in the course of monitoring compliance pursuant to Article 3 hereof.

4.2. The Competent Body shall take all reasonable steps to secure the protection of the documents confided to it against falsification and misappropriation.

4.3. Furthermore, the Competent Body shall take all reasonable steps to secure the protection of the documents entrusted to it from destruction, for a period of at least three years from the date of termination of this contract. At the end of this period the Competent Body may destroy the documentation.

Article 5

SUSPENSION AND WITHDRAWAL

5.1. In a case where the Holder becomes aware that he fails to meet the terms of use or provisions contained in Articles 1, 2 and 3, the Holder shall notify the Competent Body and refrain from using the eco-label until those terms for use or provisions have been fulfilled and the Competent Body notified thereof.

5.2. Where the Competent Body considers that the Holder has contravened any of the terms of use or provisions of this contract, the Competent Body shall be entitled to suspend or withdraw its authorization to the Holder to use the eco-label, and to take such measures as are necessary to prevent the Holder from using it further, including such measures as are provided for in Article 9.

Article 6

LIMITATION OF LIABILITY AND INDEMNITY

6.1. The Holder shall not include the eco-label as part of any guarantee or warranty in relation to the product referred to in Article 1.1 of this contract.

6.2. The Competent Body, including its authorized agents, shall not be liable for any loss or damage sustained by the Holder arising out of the award and/or use of the eco-label.

6.3. The Competent Body, including its authorized agents, shall not be liable for any loss or damage sustained by a third party and arising out of the award and/or use, including advertising, of the eco-label.

6.4. The Holder shall indemnify and keep indemnified the Competent Body and its authorized agents against any loss, damage or liability sustained by the Competent Body, or its authorized agents, as a result of a breach of this contract by the Holder or as a result of reliance by the Competent Body on information or documentation provided by the Holder, including any claims by a third party.

Article 7

FEES

7.1. The Holder undertakes to pay to the Competent Body a fee, or fees, for use of the eco-label on the product referred to in Article 1.1, for the period of use as laid down in this contract, in accordance with the rules on fees in force at the time of the signature of the contract, made available by the Competent Body on ..... (date und full reference), and as annexed to this contract. In the event of suspension or early termination by either the Competent Body or the Holder, the Holder shall not be entitled to repayment (of the fee(s)), either in whole or in part.

7.2. Use of the eco-label is conditional upon all relevant fees having been paid in due time.

Article 8

COMPLAINTS

8.1. The Competent Body may inform the Holder of any complaints made concerning the product bearing the eco-label, and may request the Holder to reply to those complaints. The Competent Body may withhold the identity of the complainant from the Holder.

8.2. Any reply made by the Holder in accordance with a request under Article 8.1 shall be without prejudice to the rights and/or obligations of the Competent Body under Articles 3 and 5 of this contract.

Article 9

CONTRACT DURATION AND APPLICABLE LAW

9.1. Except as provided for in Article 9.2, 9.3 and 9.4 hereof, this contract shall run from the date on which it is signed by the Holder and the Competent Body, for a period of (.....), save that, if the period specified in Article 1.1 is shorter than such period, that shorter period shall apply.

9.2. The Competent Body shall, by a registered letter to the Holder, terminate this contract at an earlier date than that specified in Article 9.1 where the Commission of the European Communities amends or withdraws the product group criteria referred to in Article 1.1 of this contract.

9.3. Where the Holder has contravened any of the terms of use or provisions of this contract within the meaning of Article 5.2, the Competent Body shall be entitled to treat this as a breach of contract entitling the Competent Body, in addition to the provisions in Article 5.2, to terminate the contract, by registered letter to the Holder, at an earlier date than given in Article 9.1, within (a time period to be determined by the Competent Body).

9.4. The Holder may terminate the contract by giving the Competent Body one month's notice by registered letter.

9.5. If the product group criteria as stated in Article 1.1 are extended without amendments for any period, and if no written notice of termination from the Competent Body has been given at least two months before the expiry of the product group criteria and of this contract, the Competent Body shall inform the Holder at least two months in advance that the contract shall be automatically renewed for as long as the product group criteria remain in force.

9.6. After the termination of this contract the Holder may not use the eco-label in relation to the product specified in Article 1.1 of this contract, either as labelling or for advertising purposes, except that the display of the eco-label on exemplars of the product no longer held by the Holder in stock and placed on the market before the date of termination of this contract may remain on the market for a maximum period of six months after the termination date.

9.7. Any dispute between the Competent Body and the Holder or any claim by one party against the other based on this contract which has not been settled by amicable agreement between the Contracting Parties, shall be subject to the applicable law of the Member State/region of the Competent Body and to the jurisdiction of the courts of the Member State/region of the Competent Body.

The following Annexes shall form part of this contract:

— copy of Council Regulation (EEC) No 880/92 of 23 March 1992 on a Community eco-label award scheme, in (the relevant Community language(s)),

— product specifications,

— a copy of Commission Decision ..... (on product group criteria),

— eco-label specifications,

— a copy of Commission Decision 93/326/EEC of 13 May 1993 establishing indicative guidelines for the fixing of costs and fees in connection with the Community eco-label, in (the relevant Community language(s)).

Done at ..... and date .....

.....

Competent Body

Designated person .....

.....

Legally binding signature

Competent Body seal

Done at ..... and date .....

.....

Holder

Designated person .....

.....

Legally binding signature

Company seal