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►B REGULATION (EC) No 66/2010 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 25 November 2009

on the EU Ecolabel

(Text with EEA relevance)

(OJ L 27, 30.1.2010, p. 1)

Corrected by:

►C1 Corrigendum, OJ L 108, 29.4.2010, p. 355 (66/2010)

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REGULATION (EC) No 66/2010 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 25 November 2009

on the EU Ecolabel

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 175(1) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee ([1]),

Having regard to the opinion of the Committee of the Regions ([2]),

Acting in accordance with the procedure laid down in Article 251 of the Treaty ([3]),

Whereas:

(1) The aim of 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]) was to establish a voluntary ecolabel award scheme intended to promote products with a reduced environmental impact during their entire life cycle and to provide consumers with accurate, non-deceptive, science-based information on the environmental impact of products.

(2) The experience gained during the implementation of Regulation (EC) No 1980/2000 has shown the need to amend that ecolabel scheme in order to increase its effectiveness and streamline its operation.

(3) The amended scheme (hereinafter 'the EU Ecolabel scheme') should be implemented in compliance with the provisions of the Treaties, including, in particular, the precautionary principle as laid down in Article 174(2) of the EC Treaty.

(4) It is necessary to ensure coordination between the EU Ecolabel scheme and the establishment of the requirements in the context of Directive 2009/125/EC of the European Parliament and of the Council of 21 October 2009 establishing a framework for the setting of ecodesign requirements for energy related products ([5]).

(5) The EU Ecolabel scheme is part of the sustainable consumption and production policy of the Community, which aims at reducing the negative impact of consumption and production on the

([1]) OJ C 120, 28.5.2009, p. 56.
([2]) OJ C 218, 11.9.2009, p. 50.
([3]) Opinion of the European Parliament of 2 April 2009 (not yet published in the Official Journal) and Council Decision of 26 October 2009.
([4]) OJ L 237, 21.9.2000, p. 1.
([5]) OJ L 285, 31.10.2009, p. 10.

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environment, health, climate and natural resources. The scheme is intended to promote those products which have a high level of environmental performance through the use of the EU Ecolabel. To this effect, it is appropriate to require that the criteria with which products must comply in order to bear the EU Ecolabel be based on the best environmental performance achieved by products on the Community market. Those criteria should be simple to understand and to use and should be based on scientific evidence, taking into consideration the latest technological developments. Those criteria should be market oriented and limited to the most significant environmental impacts of products during their whole life cycle.

(6) In order to avoid the proliferation of environmental labelling schemes and to encourage higher environmental performance in all sectors for which environmental impact is a factor in consumer choice, the possibility of using the EU Ecolabel should be extended. However, for food and feed product groups, a study should be undertaken to ensure that criteria are feasible and that added value can be guaranteed. For food and feed products, as well as unprocessed agricultural products that lie within the scope of Council Regulation (EC) No 834/2007 of 28 June 2007 on organic production and labelling of organic products ([1]), the option that only those products certified as organic would be eligible for award of the EU Ecolabel should be considered, to avoid confusion for consumers.

(7) The EU Ecolabel should aim at substituting hazardous substances by safer substances, wherever technically possible.

(8) For the acceptance by the general public of the EU Ecolabel scheme, it is essential that environmental non-governmental organisations (NGOs) and consumer organisations play an important role and be actively involved in the development and setting of EU Ecolabel criteria.

(9) It is desirable that any interested party may lead the development or revision of EU Ecolabel criteria provided that common procedural rules are followed and that the process is coordinated by the Commission. In order to ensure the overall coherence of the Community's action, it is also appropriate to require that the latest strategic objectives of the Community in the field of the environment, such as Environment Action Programmes, Sustainable Development Strategies and Climate Change Programmes, be taken into account in the development or revision of EU Ecolabel criteria.

(10) In order to simplify the EU Ecolabel scheme and to reduce the administrative burden associated with the use of the EU Ecolabel, the assessment and verification procedures should be streamlined.

(11) It is appropriate to provide for the conditions under which the EU Ecolabel may be used and, in order to ensure compliance with those conditions, to require competent bodies to undertake verifications and to prohibit the use of the EU Ecolabel where the

([1]) OJ L 189, 20.7.2007, p. 1.

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conditions for use have not been complied with. It is also appropriate to require Member States to lay down the rules on penalties applicable to infringements of this Regulation and to ensure that they are implemented.

(12) In order to increase the use of the EU Ecolabel and in order to encourage those whose products meet the EU Ecolabel criteria, the costs of using the EU Ecolabel should be reduced.

(13) It is necessary to inform the public and to raise public awareness of the EU Ecolabel through promotion actions, information and education campaigns, at local, national and Community levels, in order to make consumers aware of the meaning of the EU Ecolabel and to enable them to make informed choices. It is also necessary in order to make the scheme more attractive to producers and retailers.

(14) Member States should consider guidelines when they establish their national Green Public Procurement Action Plans and could consider the setting of targets for public purchasing of environmental friendly products.

(15) In order to facilitate the marketing of products bearing environmental labels at national and Community levels, to limit additional work for companies, in particular SMEs, and to avoid confusing consumers, it is also necessary to enhance the coherence and promote harmonisation between the EU Ecolabel scheme and national ecolabelling schemes in the Community.

(16) In order to ensure a harmonised application of the awarding system and of the market surveillance and control of the use of the EU Ecolabel throughout the Community, competent bodies should exchange information and experiences.

(17) The measures necessary for the implementation of this Regulation 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 ([1]).

(18) In particular, the Commission should be empowered to adopt the criteria with which products must comply in order to bear the EU Ecolabel and to amend the Annexes to this Regulation. Since those measures are of general scope and are designed to amend non-essential elements of this Regulation, inter alia by supplementing it with new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.

(19) For reasons of clarity and legal certainty, Regulation (EC) No 1980/2000 should therefore be replaced by this Regulation.

(20) Appropriate transitional provisions should be provided to ensure a smooth transition between Regulation (EC) No 1980/2000 and this Regulation,

([1]) OJ L 184, 17.7.1999, p. 23.

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HAVE ADOPTED THIS REGULATION:

Article 1

Subject matter

This Regulation lays down rules for the establishment and application of the voluntary EU Ecolabel scheme.

Article 2

Scope

1. This Regulation shall apply to any goods or services which are supplied for distribution, consumption or use on the Community market whether in return for payment or free of charge (hereinafter 'products').

2. This Regulation shall apply neither to medicinal products for human use, as defined in Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use ([1]), or for veterinary use, as defined in Directive 2001/82/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to veterinary medicinal products ([2]), nor to any type of medical device.

Article 3

Definitions

For the purposes of this Regulation, the following definitions shall apply:

1. 'product group' means a set of products that serve similar purposes and are similar in terms of use, or have similar functional properties, and are similar in terms of consumer perception;

2. 'operator' means any producer, manufacturer, importer, service provider, wholesaler or retailer;

3. 'environmental impact' means any change to the environment resulting wholly or partially from a product during its life cycle;

4. 'environmental performance' means the result of a manufacturer's management of those characteristics of a product that cause environmental impact;

5. 'verification' means a procedure to certify that a product complies with specified EU Ecolabel criteria.

Article 4

Competent bodies

1. Each Member State shall designate the body or bodies, within government ministries or outside, responsible for carrying out the tasks provided for in this Regulation ('the competent body' or 'the competent bodies') and ensure that they are operational. Where more

([1]) OJ L 311, 28.11.2001, p. 67.
([2]) OJ L 311, 28.11.2001, p. 1.

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than one competent body is designated, the Member State shall determine those bodies' respective powers and the coordination requirements applicable to them.

2. The composition of the competent bodies shall be such as to guarantee their independence and neutrality and their rules of procedure shall be such as to ensure transparency in the conduct of their activities as well as the involvement of all interested parties.

3. Member States shall ensure that competent bodies meet the requirements laid down in Annex V.

4. Competent bodies shall ensure that the verification process is carried out in a consistent, neutral and reliable manner by a party independent from the operator being verified, based on international, European or national standards and procedures concerning bodies operating product-certification schemes.

Article 5

European Union Ecolabelling Board

1. The Commission shall establish a European Union Ecolabelling Board (EUEB) consisting of the representatives of the competent bodies of all the Member States, as referred to in Article 4, and of other interested parties. The EUEB shall elect its president according to its rules of procedure. It shall contribute to the development and revision of EU Ecolabel criteria and to any review of the implementation of the EU Ecolabel scheme. It shall also provide the Commission with advice and assistance in these areas and, in particular, issue recommendations on minimum environmental performance requirements.

2. The Commission shall ensure that, in the conduct of its activities, the EUEB observes a balanced participation of all relevant interested parties in respect of each product group, such as competent bodies, producers, manufacturers, importers, service providers, wholesalers, retailers, notably SMEs, and environmental protection groups and consumer organisations.

Article 6

General requirements for EU Ecolabel criteria

1. EU Ecolabel criteria shall be based on the environmental performance of products, taking into account the latest strategic objectives of the Community in the field of the environment.

2. EU Ecolabel criteria shall set out the environmental requirements that a product must fulfil in order to bear the EU Ecolabel.

3. EU Ecolabel criteria shall be determined on a scientific basis considering the whole life cycle of products. In determining such criteria, the following shall be considered:

(a) the most significant environmental impacts, in particular the impact on climate change, the impact on nature and biodiversity, energy and resource consumption, generation of waste, emissions to all environmental media, pollution through physical effects and use and release of hazardous substances;

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(b) the substitution of hazardous substances by safer substances, as such or via the use of alternative materials or designs, wherever it is technically feasible;

(c) the potential to reduce environmental impacts due to durability and reusability of products;

(d) the net environmental balance between the environmental benefits and burdens, including health and safety aspects, at the various life stages of the products;

(e) where appropriate, social and ethical aspects, e.g. by making reference to related international conventions and agreements such as relevant ILO standards and codes of conduct;

(f) criteria established for other environmental labels, particularly officially recognised, nationally or regionally, EN ISO 14024 type I environmental labels, where they exist for that product group so as to enhance synergies;

(g) as far as possible the principle of reducing animal testing.

4. EU Ecolabel criteria shall include requirements intended to ensure that the products bearing the EU Ecolabel function adequately in accordance with their intended use.

5. Before developing EU Ecolabel criteria for food and feed products, as defined in Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety ([1]), the Commission shall undertake a study, by 31 December 2011 at the latest, exploring the feasibility of establishing reliable criteria covering environmental performance during the whole life cycle of such products, including the products of fishing and aquaculture. The study should pay particular attention to the impact of any EU Ecolabel criteria on food and feed products, as well as unprocessed agricultural products that lie within the scope of Regulation (EC) No 834/2007. The study should consider the option that only those products certified as organic would be eligible for award of the EU Ecolabel, to avoid confusion for consumers.

The Commission shall decide, taking into account the outcome of the study and the opinion of the EUEB, for which group of food and feed, if any, the development of EU Ecolabel criteria is feasible, in accordance with the regulatory procedure with scrutiny referred to in Article 16(2).

6. The EU Ecolabel may not be awarded to goods containing substances or preparations/mixtures meeting the criteria for classification as toxic, hazardous to the environment, carcinogenic, mutagenic or toxic for reproduction (CMR), in accordance with Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures ([2]), nor to goods containing substances

([1]) OJ L 31, 1.2.2002, p. 1.
([2]) OJ L 353, 31.12.2008, p. 1.

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referred to in Article 57 of Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency ([1]).

7. For specific categories of goods containing substances referred to in paragraph 6, and only in the event that it is not technically feasible to substitute them as such, or via the use of alternative materials or designs, or in the case of products which have a significantly higher overall environment performance compared with other goods of the same category, the Commission may adopt measures to grant derogations from paragraph 6. No derogation shall be given concerning substances that meet the criteria of Article 57 of Regulation (EC) No 1907/2006 and that are identified according to the procedure described in Article 59(1) of that Regulation, present in mixtures, in an article or in any homogeneous part of a complex article in concentrations higher than 0,1 % (weight by weight). Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 16(2).

Article 7

Development and revision of EU Ecolabel criteria

1. Following consultation of the EUEB, the Commission, Member States, competent bodies and other stakeholders may initiate and lead the development or revision of EU Ecolabel criteria. Where such other stakeholders are put in charge of leading the development of criteria, they must demonstrate expertise in the product area, as well as the ability to lead the process with neutrality and in line with the aims of this Regulation. In this regard, consortiums consisting of more than one interest group shall be favoured.

The party which initiates and leads the development or revision of EU Ecolabel criteria shall, in accordance with the procedure set out in Part A of Annex I, produce the following documents:

(a) a preliminary report;

(b) a proposal for draft criteria;

(c) a technical report in support of the proposal for draft criteria;

(d) a final report;

(e) a manual for potential users of the EU Ecolabel and competent bodies;

(f) a manual for authorities awarding public contracts.

Those documents shall be submitted to the Commission and to the EUEB.

2. Where criteria have already been developed under another ecolabel scheme complying with the requirements of EN ISO 14024 type I environmental labels for a product group for which no EU Ecolabel criteria have been established, any Member State in which the other ecolabel scheme is recognised may, after consulting the Commission and the EUEB, propose those criteria for development under the EU Ecolabel scheme.

([1]) OJ L 396, 30.12.2006, p. 1.

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In such cases, the shortened criteria development procedure laid down in Part B of Annex I may apply provided that the proposed criteria have been developed in line with Part A of Annex I. Either the Commission or the Member State which, according to the first subparagraph, has proposed the shortened criteria development procedure shall lead that procedure.

3. Where a non-substantial revision of the criteria is necessary, the shortened revision procedure laid down in Part C of Annex I may apply.

4. By 19 February 2011, the EUEB and the Commission shall agree on a working plan including a strategy and a non-exhaustive list of product groups. This plan will consider other Community action (e.g. in the field of green public procurement) and may be updated according to the latest strategic objectives of the Community in the field of the environment. This plan shall be regularly updated.

Article 8

Establishment of EU Ecolabel criteria

1. Draft EU Ecolabel criteria shall be developed in accordance with the procedure laid down in Annex I and taking into account the working plan.

2. The Commission shall, no later than nine months after consulting the EUEB, adopt measures to establish specific EU Ecolabel criteria for each product group. These measures shall be published in the Official Journal of the European Union.

In its final proposal, the Commission shall take into account the comments of the EUEB and shall clearly highlight, document and provide explanations for the reasoning behind any changes in its final proposal compared to the proposal for draft criteria following the consultation of the EUEB.

Those measures, designed to amend non-essential elements of this Regulation, by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 16(2).

3. In the measures referred to in paragraph 2 the Commission shall:

(a) establish requirements for assessing the compliance of specific products with EU Ecolabel criteria (‘assessment requirements’);

(b) specify, for each product group, three key environmental characteristics that may be displayed in the optional label with text box described in Annex II;

(c) specify, for each product group, the relevant period of validity of the criteria and of the assessment requirements;

(d) specify the degree of product variability allowed during the period of validity referred to in point (c).

4. When establishing EU Ecolabel criteria, care shall be taken not to introduce measures whose implementation may impose disproportionate administrative and economic burdens on SMEs.

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Article 9

Award of the EU Ecolabel and terms and conditions of its use

1. Any operator who wishes to use the EU Ecolabel shall apply to the competent bodies referred to in Article 4 in accordance with the following rules:

(a) where a product originates in a single Member State, the application shall be presented to a competent body of that Member State;

(b) where a product originates in the same form in several Member States, the application may be presented to a competent body in one of those Member States;

(c) where a product originates outside the Community, the application shall be presented to a competent body in any of the Member States in which the product is to be or has been placed on the market.

2. The EU Ecolabel shall have the form depicted in Annex II.

The EU Ecolabel may only be used in connection with products complying with the EU Ecolabel criteria applicable to the products concerned and for which the EU Ecolabel has been awarded.

3. Applications shall specify the full contact details of the operator, as well as the product group in question and shall contain a full description of the product as well as all other information requested by the competent body.

Applications shall include all relevant documentation, as specified in the relevant Commission measure establishing EU Ecolabel criteria for the product group in question.

4. The competent body to which an application is made shall charge fees according to Annex III. The use of the EU Ecolabel shall be conditional upon the fees having been paid in due time.

5. Within two months of receipt of an application, the competent body concerned shall check whether the documentation is complete and shall notify the operator. The competent body may reject the application if the operator fails to complete the documentation within six months after such notification.

Provided that the documentation is complete and the competent body has verified that the product complies with the EU Ecolabel criteria and assessment requirements published according to Article 8, the competent body shall assign a registration number to the product.

Operators shall meet the costs of testing and assessment of conformity with EU Ecolabel criteria. Operators may be charged for travel and accommodation costs where an on-site verification is needed outside the Member State in which the competent body is based.

6. Where EU Ecolabel criteria require production facilities to meet certain requirements, they shall be met in all facilities in which the product bearing the EU Ecolabel is manufactured. Where appropriate, the competent body shall undertake on-site verifications or assign an authorised agent for that purpose.

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7. Competent bodies shall preferentially recognise tests which are accredited according to ISO 17025 and verifications performed by bodies which are accredited under the EN 45011 standard or an equivalent international standard. Competent bodies shall collaborate in order to ensure the effective and consistent implementation of the assessment and verification procedures, notably through the working group referred to in Article 13.

8. The competent body shall conclude a contract with each operator, covering the terms of use of the EU Ecolabel (including provisions for the authorisation and withdrawal of the EU Ecolabel, notably following the revision of criteria). To that end a standard contract shall be used in accordance with the template in Annex IV.

9. The operator may place the EU Ecolabel on the product only after conclusion of the contract. The operator shall also place the registration number on the product bearing the EU Ecolabel.

10. The competent body which has awarded the EU Ecolabel to a product shall notify the Commission thereof. The Commission shall establish a common register and update it regularly. That register shall be publicly available on a website dedicated to the EU Ecolabel.

11. The EU Ecolabel may be used on the products for which the EU Ecolabel has been awarded and on their associated promotional material.

12. The award of the EU Ecolabel shall be without prejudice to environmental or other regulatory requirements of Community or national law applicable to the various life stages of the product.

13. The right to use the EU Ecolabel shall not extend to the use of the EU Ecolabel as a component of a trademark.

Article 10

Market surveillance and control of the use of the EU Ecolabel

1. Any false or misleading advertising or use of any label or logo which leads to confusion with the EU Ecolabel shall be prohibited.

2. The competent body shall, in respect of products to which it has awarded the EU Ecolabel, verify that the product complies with the EU Ecolabel criteria and assessment requirements published under Article 8, on a regular basis. The competent body shall, as appropriate, also undertake such verifications upon complaint. These verifications may take the form of random spot-checks.

The competent body which has awarded the EU Ecolabel to the product shall inform the user of the EU Ecolabel of any complaints made concerning the product bearing the EU Ecolabel, and may request the user to reply to those complaints. The competent body may withhold the identity of the complainant from the user.

3. The user of the EU Ecolabel shall allow the competent body which has awarded the EU Ecolabel to the product to undertake all necessary investigations to monitor its on-going compliance with the product group criteria and Article 9.

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4. The user of the EU Ecolabel shall, upon request by the competent body which has awarded the EU Ecolabel to the product, grant access to the premises on which the product concerned is produced.

The request may be made at any reasonable time and without notice.

5. Where, after giving the user of the EU Ecolabel the opportunity to submit observations, any competent body which finds that a product bearing the EU Ecolabel does not comply with the relevant product group criteria or that the EU Ecolabel is not used in accordance with Article 9, it shall either prohibit the use of the EU Ecolabel on that product, or, in the event that the EU Ecolabel has been awarded by another competent body, it shall inform that competent body. The user of the EU Ecolabel shall not be entitled to repayment of the fees referred to in Article 9(4), either in whole or in part.

The competent body shall without delay inform all other competent bodies and the Commission of that prohibition.

6. The competent body which has awarded the EU Ecolabel to the product shall not disclose, or use for any purpose unconnected with the award for use of the EU Ecolabel, information to which it has gained access in the course of assessing the compliance by a user of the EU Ecolabel with the rules on use of the EU Ecolabel set out in Article 9.

It shall take all reasonable steps to secure the protection of the documents provided to it against falsification and misappropriation.

Article 11

Ecolabelling schemes in the Member States

1. Where EU Ecolabel criteria for a given product group have been published, other nationally or regionally officially recognised EN ISO 14024 type I ecolabelling schemes which do not cover that product group at the time of publication may be extended to that product group only where the criteria developed under those schemes are at least as strict as the EU Ecolabel criteria.

2. In order to harmonise the criteria of European ecolabelling schemes (EN ISO 14024 type I), EU Ecolabel criteria shall also take into account existing criteria developed in officially recognised ecolabelling schemes in the Member States.

Article 12

Promotion of the EU Ecolabel

1. Member States and the Commission shall, in cooperation with the EUEB, agree on a specific action plan to promote the use of the EU Ecolabel by:

(a) awareness-raising actions and information and public education campaigns for consumers, producers, manufacturers, wholesalers, service providers, public purchasers, traders, retailers and the general public,

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(b) encouraging the uptake of the scheme, especially for SMEs,

thus supporting the development of the scheme.

2. Promotion of the EU Ecolabel may be undertaken via the EU Ecolabel website providing basic information and promotional materials on the EU Ecolabel, and information on where to purchase EU Ecolabel products, in all Community languages.

3. Member States shall encourage the use of the 'Manual for authorities awarding public contracts', as specified in Annex I, Part A, point 5. For this purpose, Member States shall consider, for example, the setting of targets for the purchasing of products meeting the criteria specified in that Manual.

Article 13

Exchange of information and experiences

1. In order to foster consistent implementation of this Regulation, competent bodies shall regularly exchange information and experiences, in particular on the application of Articles 9 and 10.

2. The Commission shall set up a working group of competent bodies for this purpose. The working group shall meet at least twice a year. Travel expenses shall be borne by the Commission. The working group shall elect its chair and adopt its rules of procedure.

Article 14

Report

By 19 February 2015, the Commission shall submit to the European Parliament and the Council a report on the implementation of the EU Ecolabel scheme. The report shall also identify elements for a possible review of the scheme.

Article 15

Amendment of Annexes

The Commission may amend the Annexes, including modifying the maximum fees provided for in Annex III taking into account the need for fees to cover the costs of running the scheme.

Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 16(2).

Article 16

Committee procedure

1. The Commission shall be assisted by a Committee.

2. Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

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Article 17

Penalties

Member States shall lay down the rules on penalties applicable to infringements of the provisions of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive. The Member States shall notify those provisions to the Commission without delay and shall notify it without delay of any subsequent amendment affecting them.

Article 18

Repeal

Regulation (EC) No 1980/2000 is hereby repealed.

Article 19

Transitional provisions

Regulation (EC) No 1980/2000 shall continue to apply to contracts concluded under Article 9 thereof until the date of expiry specified in those contracts, except for its provisions concerning fees.

Article 9(4) of and Annex III to this Regulation shall apply to such contracts.

Article 20

Entry into force

This Regulation shall enter into force on the twentieth day following its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

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ANNEX I

PROCEDURE FOR THE DEVELOPMENT AND REVISION OF EU ECOLABEL CRITERIA

A. **Standard procedure**

The following documents must be drawn up:

1. *Preliminary report*

The preliminary report must contain the following elements:

— Quantitative indication of the potential environmental benefits related to the product group, including consideration of the benefits from other similar European and national or regional EN ISO 14024 type I ecolabelling schemes,

— Reasoning for choice and scope of product group,

— Consideration of any possible trade issues,

— Analysis of other environmental labels' criteria,

— Current laws and ongoing legislative initiatives related to the product group sector,

— Analysis of the possibilities of substitution of hazardous substances by safer substances, as such or via the use of alternative materials or designs, wherever technically feasible, in particular with regard to substances of very high concern as referred to in Article 57 of Regulation (EC) No 1907/2006,

— Intra-community market data for the sector, including volumes and turnover,

— Current and future potential for market penetration of the products bearing the EU Ecolabel,

— Extent and overall relevance of the environmental impacts associated with the product group, based on new or existing life cycle assessment studies. Other scientific evidence may also be used. Critical and controversial issues shall be reported in detail and evaluated,

— References of data and information collected and used for issuing the report.

The preliminary report shall be made available on the Commission's dedicated EU Ecolabel website for comment and reference during the development of the criteria.

Where criteria are to be developed for food and feed product groups, the preliminary report must, with reference to the study undertaken according to Article 6(5), demonstrate the following:

— there is a real added environmental value in developing EU Ecolabel criteria for the chosen product,

— the EU Ecolabel has considered the whole life cycle of the product, and

— the use of the EU Ecolabel on the chosen product will not cause confusion when compared with other food labels.

2. *Proposal for draft criteria and associated technical report*

Following the publication of the preliminary report, a proposal for draft criteria and a technical report in support of the proposal shall be established.

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The draft criteria shall comply with the following requirements:

— they shall be based on the best products available on the Community market in terms of environmental performance throughout the life cycle, and they shall correspond indicatively to the best 10-20 % of the products available on the Community market in terms of environmental performance at the moment of their adoption,

— in order to allow for the necessary flexibility the exact percentage shall be defined on a case-by-case basis and in each case with the aim of promoting the most environmentally friendly products and ensuring that consumers are provided with sufficient choice,

— they shall take into consideration the net environmental balance between the environmental benefits and burdens, including health and safety aspects; where appropriate, social and ethical aspects shall be considered, e.g. by making reference to related international conventions and agreements such as relevant ILO standards and codes of conduct,

— they shall be based on the most significant environmental impacts of the product, be expressed as far as reasonably possible via technical key environmental performance indicators of the product, and be suitable for assessment according to the rules of this Regulation,

— they shall be based on sound data and information which are representative as far as possible of the entire Community market,

— they shall be based on life cycle data and quantitative environmental impacts, where applicable in compliance with the European Reference Life Cycle Data Systems (ELCD),

— they shall take into consideration the views of all interested parties involved in the consultation process,

— they shall guarantee harmonisation with existing legislation applicable to the product group when considering definitions, test methods and technical and administrative documentation,

— they shall take into account relevant Community policies and work done on other related product groups.

The proposal for draft criteria shall be written in a way that is easily accessible to those wishing to use them. It shall provide justification for each criterion and explain the environmental benefits related to each criterion. It shall highlight the criteria corresponding to the key environmental characteristics.

The technical report shall include at least the following elements:

— the scientific explanations of each requirement and criterion,

— a quantitative indication of the overall environmental performance that the criteria are expected to achieve in their totality, when compared to that of the average products on the market,

— an estimation of the expected environmental/economic/social impacts of the criteria as a whole,

— the relevant test methods for assessment of the different criteria,

— an estimation of testing costs,

— for each criterion, information about all tests, reports and other documentation that shall be produced by users on request from a competent body in accordance with Article 10(3).

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The proposal for draft criteria and the technical report shall be made available for public consultation on the Commission's dedicated EU Ecolabel website for comment. The party leading the product group development shall distribute the proposal and the report to all interested parties.

At least two open working group meetings shall be held on the draft criteria, to which all interested parties, such as competent bodies, industry (including SMEs), trade unions, retailers, importers, environmental and consumer organisations, shall be invited. The Commission shall also participate in those meetings.

The proposal for draft criteria and the technical report shall be made available at least one month before the first working group meeting. Any subsequent proposal for draft criteria shall be made available at least one month before subsequent meetings. The reasoning behind any changes to the criteria in subsequent drafts shall be fully explained and documented with reference to discussions in the open working groups meetings and comments received in public consultation.

Responses shall be given to all comments received during the criteria development process, indicating whether they are accepted or rejected and why.

3. *Final report and draft criteria*

The final report shall contain the following elements:

Clear responses to all comments and proposals, indicating whether they are accepted or rejected and why. European Union and non-European Union interested parties shall be treated on an equal footing.

It shall also include the following elements:

— a one-page summary of the level of support for the draft criteria by the competent bodies,

— a summary list of all documents circulated in the course of the criteria development work, together with an indication of the date of circulation of each document and to whom each document has been circulated, and a copy of the documents in question,

— a list of the interested parties involved in the work or which have been consulted or have expressed an opinion, together with their contact information,

— an executive summary,

— three key environmental characteristics for the product group that may be displayed in the optional label with text box described in Annex II,

— a proposal for a marketing and communication strategy for the product group.

Any observations received on the final report shall be taken into consideration, and information on the follow-up to the comments shall be provided on request.

4. *Manual for potential users of the EU Ecolabel and competent bodies*

A manual shall be established in order to assist potential users of the EU Ecolabel and competent bodies in assessing the compliance of products with the criteria.

5. *Manual for authorities awarding public contracts*

A manual providing guidance for the use of EU Ecolabel criteria to authorities awarding public contracts shall be established.

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The Commission will provide templates translated into all official Community languages for the manual for potential users and competent bodies and for the manual for authorities awarding public contracts.

B. **Shortened procedure where criteria have been developed by other EN ISO 14024 type I ecolabelling schemes**

A single report shall be submitted to the Commission. This report shall include a section demonstrating that the technical and consultation requirements set out in Part A have been met, along with a proposal for draft criteria, a manual for potential users of the EU Ecolabel and competent bodies, and a manual for authorities awarding public contracts.

If the Commission is satisfied that the report and criteria meet the requirements set out in Part A, the report and the proposal for draft criteria shall be made available for public consultation on the Commission's dedicated EU Ecolabel website for a period of two months for comment.

Responses shall be given to all comments received during the public consultation period, indicating whether each comment is accepted or rejected and why.

Subject to any changes made during the public consultation period, and if no Member State requests an open working group meeting, the Commission may adopt the criteria pursuant to Article 8.

Upon request from any Member State, an open working group meeting shall be held on the draft criteria, in which all interested parties, such as competent bodies, industry (including SMEs), trade unions, retailers, importers, environmental and consumer organisations, shall participate. The Commission shall also participate in that meeting.

Subject to any changes made during the public consultation period or during the working group meeting, the Commission may adopt the criteria pursuant to Article 8.

C. **Shortened procedure for non-substantial revision of the criteria**

The Commission shall produce a report containing the following:

— a justification explaining why there is no need for a full revision of the criteria and why a simple updating of the criteria and their stringency levels is sufficient,

— a technical section updating the previous market data used for the setting of the criteria,

— a proposal for draft revised criteria,

— a quantitative indication of the overall environmental performance that the revised criteria are expected to achieve in their totality, when compared to that of the average products on the market,

— a revised manual for potential users of the EU Ecolabel and competent bodies, and

— a revised manual for authorities awarding public contracts.

The report and the proposal for draft criteria shall be made available for public consultation on the Commission's dedicated EU Ecolabel website for a period of two months for comment.

Responses shall be given to all comments received during the public consultation period, indicating whether each comment is accepted or rejected and why.

Subject to any changes made during the public consultation period, and if no Member State requests an open working group meeting, the Commission may adopt the criteria pursuant to Article 8.

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Upon request from any Member State, an open working group meeting shall be held on the draft revised criteria, in which all interested parties, such as competent bodies, industry (including SMEs), trade unions, retailers, importers, environmental and consumer organisations, shall participate. The Commission shall also participate in that meeting.

Subject to any changes made during the public consultation period or during the working group meeting, the Commission may adopt the criteria pursuant to Article 8.

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ANNEX II

FORM OF THE EU ECOLABEL

The EU Ecolabel shall take the following form:

Label:



Optional label with text box (the possibility for the operator to use this text box and the text used shall be that specified in the relevant product group criteria):

▼C1



The EU Ecolabel registration number shall also appear on the product. It shall take the following form:



Where xxxx refers to the country of registration, yyy refers to the product group and zzzzz refers to the number given by the competent body.

The label, the optional label with text box and the registration number shall be printed either in two colours (Pantone 347 green for the leaves and stem of the flower, the 'Є' symbol, the web address and the EU acronym and Pantone 279 for all other elements, text and borders), or in black on white, or in white on black.

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ANNEX III

FEES

1. **Application fee**

The competent body to which an application is made shall charge a fee according to the real administrative costs of processing the application. This fee shall be no lower than EUR 200 and no higher than EUR 1 200.

In the case of small and medium enterprises [1] and operators in developing countries, the maximum application fee shall be no higher than EUR 600.

In the case of micro-enterprises [1] the maximum application fee shall be EUR 350.

The application fee shall be reduced by 20 % for applicants registered under the Community eco-management and audit scheme (EMAS) and/or certified under the standard ISO 14001. This reduction is subject to the condition that the applicant explicitly commits, in its environmental policy, to ensure full compliance of its ecolabelled products with the EU Ecolabel criteria throughout the period of validity of the contract and that this commitment is appropriately incorporated into the detailed environmental objectives. ISO 14001 certified applicants shall demonstrate annually the implementation of this commitment. EMAS registered applicants shall forward a copy of their annually verified environmental statement.

2. **Annual fee**

The competent body may require each applicant who has been awarded an EU Ecolabel to pay an annual fee of up to EUR 1 500 for the use of the label.

In the case of small and medium enterprises and operators in developing countries, the maximum annual fee shall be no higher than EUR 750.

In the case of micro-enterprises the maximum annual fee shall be EUR 350.

The period covered by the annual fee will begin with the date of the award of the EU Ecolabel to the applicant.

[1] SMEs and micro-enterprises as defined by Commission Recommendation 2003/361/EC of 6 May 2003 (OJ L 124, 20.5.2003, p. 36).

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ANNEX IV

STANDARD CONTRACT COVERING THE TERMS OF USE OF THE EU ECOLABEL

PREAMBLE

The competent body..... (full title) hereinafter 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),..... (full name of holder), in his capacity as producer, manufacturer, importer, service provider, wholesaler or retailer whose official registered address is ..... (full address), hereafter called 'the holder', represented by .....(name of person responsible), have agreed the following with regard to the use of the EU Ecolabel, pursuant to Regulation (EC) No 66/2010 of the European Parliament and of the Council of 25 November 2009 on the EU Ecolabel [1], hereinafter 'the EU Ecolabel Regulation':

1. USE OF THE EU ECOLABEL

1.1. The competent body grants the holder the right to use the EU Ecolabel for his products as described in the annexed product specifications, which conform 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 Union* of..... (full reference), and annexed to this contract.

1.2. The EU Ecolabel shall be used only in the forms stipulated in Annex II to the EU Ecolabel Regulation.

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 Article 9 of the EU Ecolabel Regulation, at all times. No new application will be required for modifications in the characteristics of the products which do not affect compliance with the criteria. The holder shall however inform the competent body of such modifications by registered letter. The competent body may carry out appropriate verifications.

1.4. The contract may be extended to a wider range of products than those initially foreseen, subject to agreement by the competent body, and subject to the condition that they belong to the same product group and that they also comply with its criteria. The competent body may verify that these conditions are met. The Annex detailing the product specifications shall be modified accordingly.

1.5. 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 with, or calls into question the integrity of, the EU Ecolabel.

1.6. The holder shall be responsible under this contract for the manner in which the EU Ecolabel is used in relation to his product, especially in the context of advertising.

1.7. The competent body, including its agents authorised for such purpose, may undertake all necessary investigations to monitor the ongoing compliance by the holder with both the product group criteria and the terms of use and provisions of this contract in accordance with the rules laid down in Article 10 of the EU Ecolabel Regulation.

[1] OJ L 27, 30.1.2010, p. 1.

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2. SUSPENSION AND WITHDRAWAL

2.1. In the event that the holder becomes aware that he is failing to meet the terms of use or provisions contained in Article 1 of this contract, the holder shall notify the competent body and refrain from using the EU Ecolabel until those terms for use or provisions have been fulfilled and the competent body has been notified thereof.

2.2. 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 authorisation to the holder to use the EU Ecolabel, and to take such measures as are necessary to prevent the holder from using it further, including such measures as are provided for in Articles 10 and 17 of the EU Ecolabel Regulation.

3. LIMITATION OF LIABILITY AND INDEMNITY

3.1. The holder shall not include the EU Ecolabel as part of any guarantee or warranty in relation to the product referred to in Article 1.1 of this contract.

3.2. The competent body, including its authorised agents, shall not be liable for any loss or damage sustained by the holder arising out of the award and/or use of the EU Ecolabel.

3.3. The competent body, including its authorised 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 EU Ecolabel.

3.4. The holder shall indemnify and keep indemnified the competent body and its authorised agents against any loss, damage or liability sustained by the competent body, or its authorised 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.

4. FEES

4.1. The amount of application fee and annual fee shall be defined in accordance with Annex III of the EU Ecolabel Regulation.

4.2. Use of the EU Ecolabel is conditional upon all relevant fees having been paid in due time.

5. CONTRACT DURATION AND APPLICABLE LAW

5.1. Except as provided for in Article 5.2, 5.3 and 5.4, this contract shall run from the date on which it is signed until (…) or until expiry of the product group criteria, whichever is sooner.

5.2. Where the holder has contravened any of the terms of use or provisions of this contract within the meaning of Article 2.2, 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 2.2, to terminate the contract, by registered letter to the holder, at an earlier date than that set out in Article 5.1, within (a time period to be determined by the competent body).

5.3. The holder may terminate the contract by giving the competent body three months' notice by registered letter.

5.4. 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 three months before the expiry of the product group criteria and of this contract, the competent body shall inform the holder at least three months in advance that the contract shall be automatically renewed for as long as the product group criteria remain in force.

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5.5. After the termination of this contract the holder may not use the EU Ecolabel in relation to the product specified in Article 1.1 and in the Annex to this contract, either as labelling or for advertising purposes. The EU Ecolabel may nevertheless, for a period of six months after the termination, be displayed on stock held by the holder or others and manufactured before the termination. This latter provision shall not apply if the contract has been terminated for the reasons set out in Article 5.2.

5.6. 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 determined in accordance with Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (Rome I) ([1]) and Regulation (EC) No 864/2007 of the European Parliament and of the Council of 11 July 2007 on the law applicable to non-contractual obligations (Rome II ([2])).

The following Annexes shall form part of this contract:

— a copy of Regulation (EC) No 66/2010 of the European Parliament and of the Council of 25 November 2009 on the EU Ecolabel, in (the relevant Community language(s)),

— product specifications, which shall at least include details of the names, and/or the manufacturer's internal reference numbers, the manufacturing sites, and the related EU Ecolabel registration number or numbers,

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

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

....

(Competent body)

Designated person ....

....

(Legally binding signature)

....

(Holder)

Designated person ....

....

(Legally binding signature)

([1]) OJ L 177, 4.7.2008, p. 6.
([2]) OJ L 199, 31.7.2007, p. 40.

▼B

ANNEX V

REQUIREMENTS RELATING TO COMPETENT BODIES

1. A competent body shall be independent of the organisation or the product it assesses.

   A body belonging to a business association or professional federation representing undertakings involved in the design, manufacturing, provision, assembly, use or maintenance of products which it assesses, may, on condition that its independence and the absence of any conflict of interest are demonstrated, be designated as a competent body.

2. A competent body, its top-level management and the personnel responsible for carrying out the conformity assessment tasks shall not be the designer, manufacturer, supplier, installer, purchaser, owner, user or maintainer of the products which they assess, nor the authorised representative of any of those parties. This shall not preclude the use of assessed products that are necessary for the operations of the competent body or the use of such products for personal purposes.

   A competent body, its top-level management and the personnel responsible for carrying out the conformity assessment tasks shall not be directly involved in the design, manufacture or construction, the marketing, installation, use or maintenance of those products, or represent the parties engaged in those activities. They shall not engage in any activity that may conflict with their independence of judgment or integrity in relation to conformity assessment activities for which they are designated. This shall in particular apply to consultancy services.

   Competent bodies shall ensure that the activities of their subsidiaries or subcontractors do not affect the confidentiality, objectivity or impartiality of their conformity assessment activities.

3. Competent bodies and their personnel shall carry out the conformity assessment activities with the highest degree of professional integrity and the requisite technical competence in the specific field and shall be free from all pressures and inducements, particularly financial, which might influence their judgment or the results of their conformity assessment activities, especially as regards persons or groups of persons with an interest in the results of those activities.

4. A competent body shall be capable of carrying out all the conformity assessment tasks assigned to it by this Regulation, whether those tasks are carried out by the competent body itself or on its behalf and under its responsibility.

   At all times and for each conformity assessment procedure and each kind or category of products in relation to which it has been designated, a competent body shall have at its disposal the necessary:

   (a) technical knowledge and sufficient and appropriate experience to perform the conformity assessment tasks;

   (b) descriptions of procedures in accordance with which conformity assessment is carried out, ensuring the transparency and the ability of reproduction of those procedures. It shall have appropriate policies and procedures in place that distinguish between tasks it carries out as a competent body and other activities;

   (c) procedures for the performance of activities which take due account of the size of an undertaking, the sector in which it operates, its structure, the degree of complexity of the product technology in question and the mass or serial nature of the production process.

   It shall have the means necessary to perform the technical and administrative tasks connected with the conformity assessment activities in an appropriate manner and shall have access to all necessary equipment or facilities.

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5. The personnel responsible for carrying out conformity assessment activities shall have the following:

   (a) sound knowledge covering all the conformity assessment activities in relation to which the competent body has been designated;

   (b) the ability to draw up certificates, records and reports demonstrating that assessments have been carried out.

6. The impartiality of the competent bodies, of their top level management and of the assessment personnel shall be guaranteed.

   The remuneration of the top-level management and assessment personnel of a competent body shall not depend on the number of assessments carried out or on the results of those assessments.

7. Competent bodies shall participate in, or ensure that their assessment personnel are informed of, the relevant standardisation activities and the activities of the working group of competent bodies referred to in Article 13 of this Regulation and apply as general guidance the administrative decisions and documents produced as a result of the work of that group.