

COMMISSION OF THE EUROPEAN COMMUNITIES

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Brussels, 11 February 1991

Proposal for a

COUNCIL REGULATION (EEC)

on a Community award scheme for an Eco-label

(presented by the Commission)

EXPLANATORY MEMORANDUM

I. INTRODUCTION

1. Products subject to mass consumption are a potential source of important environmental degradations simply because they are manufactured and used in great quantities. The environmental impact can occur at all stages of the product's life cycle, i.e. manufacturing, distribution, consumption/use and disposal after use.
2. The need to develop a policy towards "clean" products aimed at preventing, reducing and as far as possible eliminating pollution at source and ensuring sound management of new materials resources has been emphasized in the Fourth European Community Action Programme on the Environment (1987-1992)⁽¹⁾. In particular, proposals should aim "at defining criteria for 'environmentally sound products', i.e. products which give rise to little or no waste at the elimination stage".
3. Accordingly, the Commission announced in its communication to the Council and the Parliament on a Community Strategy for Waste Management⁽²⁾ the setting up of a Community framework for an award scheme for an Eco-label.
4. The Council of the European Communities, in approving this communication in its Resolution on Waste Policy⁽³⁾, stated that priority should be given to prevention or reduction at source, particularly by the use of clean products. Therefore, the Council invited the Commission to elaborate ecological criteria for products, taking into account best available technology not entailing excessive cost and including as appropriate the use of recyclable, reusable or

(1) OJ No C 328, 7.12.1987, p. 1.

(2) Doc. SEC(89)934, 14.9.1989.

(3) OJ No C 222, 18.5.1990.

biodegradable materials. Furthermore, the Council invited the Commission to come forward with a proposal for a Community-wide eco-labelling scheme.

5. The European Parliament has already supported a Community environment label for eco-products in its Resolution on waste and landfill policy⁽⁴⁾.
6. It must be underlined that the award scheme for the Eco-label is voluntary with full freedom to apply or not to apply for a label, will provide incentives for the conception of products which will, beyond preventing the amount or harmfulness of waste, reduce pollution or reduce nuisance such as noise or odour.
7. Furthermore, the Eco-label will respond to the increasing awareness of consumers throughout the Community on environmental issues and their claim to be guided in deciding upon their purchases. With regard to consumers, the award scheme for the Eco-label will complement the development of an integral concept of consumer information on both product quality and behaviour in the environment.
8. The Federal Republic of Germany introduced in 1978 the Blue-Angel-Scheme which has since played an important role in promoting environmentally more benign alternatives using market forces. Moreover, the Blue-Angel-Scheme plays a leading role in the large sector of public procurement.
9. Several other Member States are currently considering setting up environmental label schemes i.e. France, the United Kingdom, the Netherlands and Denmark.
10. The Commission's view is that a plethora of national award schemes for Eco-labels would run the risk of fragmenting the Single Market and of creating distortion to competition in the Community. Furthermore, the setting up of national schemes as the Single Market nears completion would threaten the integration process of both economic and consumer policy.

(4) OJ No C 190, 20.7.1987.

II. SITUATION IN THE MEMBER STATES OF THE EUROPEAN COMMUNITIES

Federal Republic of Germany

The Federal Republic of Germany was the first country to introduce an official award system for an Eco-label and they still remain the only country in the Community to have done so.

The interest in the Blue Angel among manufacturers developed slowly in the first years of the existence of the symbol so that after 3 years in operation only about 100 products were carrying the symbol and after 6 years there were 500 products. More recently industrial interest has grown along with the growing environmental awareness of German consumers. In July 1989, the number of products carrying the Blue Angel had risen to 3100 covering 57 product groups. A great majority of the products bearing the label are manufactured by German companies. Only some 10% of the applications have been made by non-German companies despite the lack of restrictions for foreign companies.

Denmark

In the spring of 1989, a revised act of law on chemical substances and products was passed by the Danish Parliament. A new section of this act authorized the Minister of Environment to implement a legal environmental label concerning the sale of chemical substances and products and articles containing or liberating chemical substances and products.

Under the provisions of this act, the Minister of Environment may establish rules for obtaining the right to use the label, the design of the label, and whom the Minister requires to administer the scheme.

In addition to this revision of the act on chemical substances and products, the act on the Environment is being revised, and the revised edition is expected to contain a section on an environmental label.

The Danish initiative is strongly linked to the recent introduction of environmental label schemes in other scandinavian countries, and particularly through the cooperation within the Nordic Council.

France

1. The French Council of Ministers decided on 4 January 1989 to develop a policy towards the promotion of products which are as environmentally friendly as possible. A study group was set up to examine - in consultations with other groups concerned - the orientations to be followed, in particular encouragement through the "Eco-Product-Award", the setting up of a label scheme and fiscal measures. It has been underlined in the Interim Report issued by the Group on 27 December 1989 that all activities undertaken at Community level in this field should be taken into account. At the same time, all conclusions resulting from the preliminary study carried out in France should be presented to the Community partners.
2. Pursuant to Article 145 of the Regulation of the National Assembly, the "Commission de la Production et des Echanges" presented a report on an Eco-label in May 1990 to the National Assembly. This report comes to the conclusion that an Eco-label in France should be based on the existing certification procedure in creating a NF mark for eco-products. This mark or label should be operational as soon as possible. It would be compatible with the EC-Council Resolution of 21 December 1989 recommending mutual recognition of agreements in the field of testing and certification.

Ireland

The Irish Government is currently preparing a Bill on the "Environment Protection Agency" including provisions for a national Eco-label system which might be integrated into a Community scheme.

The Netherlands

The Dutch Ministries of Housing, Physical Planning and Environmental Protection and Economic Affairs have examined the feasibility of introducing an Eco-mark in the Netherlands. The initiative was taken in the light of the Dutch "National Environmental Policy Plan" of May 1989 which introduced consumer information on product standards as part of environmental policy as well as the possibility of creating an eco-mark.

The United Kingdom

The UK Government has carried out a consultation exercise on an eco-label on the basis of a discussion paper issued in August 1989. The consultation has shown "that there is overwhelming support for an official Eco-label scheme operating on a European Community-wide basis" as stated in a Press Release issued on 9 January 1990 by the UK Department of the Environment. A small advisory group composed of individuals with experience and knowledge relevant to the subject is currently working on defining details of the scheme and on the selection of product categories for priority consideration.

III. COMMENTS ON THIS PROPOSAL FOR A REGULATION

A) GENERAL

1. The primary objectives of the award scheme for an Eco-label covered by this Regulation are to encourage undertakings to produce products which are as environmentally friendly as possible and to provide consumers with better information on the environmental performance of products which they buy and use. The award of an Eco-label to a product will be a clear signal to consumers that the product is of high environmental quality. Products bearing the label are therefore expected to be preferred by consumers, and manufacturers will respond to the resultant demand. The Regulation therefore puts in place a market mechanism for achieving higher environmental quality.

2. The creation of the single market means that goods will be increasingly traded between Member States and it is logical that a Community-wide award scheme for an Eco-label should be put in place to avoid the confusion associated with the development of a plethora of national schemes. The Regulation therefore sets up a Community scheme which will ensure that uniformly high levels of environmental performance are achieved by products bearing the Eco-label. The scheme is voluntary and transparent, and designed to be as simple as possible whilst achieving a high level of credibility.
3. The label will be awarded only to those products which meet the general and specific criteria established for a product category, in other words products which serve similar purposes and which have equivalence of use. In establishing these criteria, the European Environment Agency will carry out preparatory work in consultation with specialist scientific and technical organisations.
4. Member States must play a major role in the setting up and operation of the scheme and this is provided for in the Regulation through the establishment by Member States of Competent Bodies which will be responsible for proposing product groups for inclusion in the scheme, for assessing individual applications for a label and for concluding contracts with successful applicants.
5. The regulation provides for the setting up of a Jury which, on the basis of recommendations of the national bodies, shall decide on the award of the label to individual products.

The decisions of the Jury are considered approved by the Commission if the Commission does not raise any objection.

6. In addition it is recognised that a scheme for awarding the Eco-label which is based on voluntary application will benefit from the participation in the Jury of all interested groups, i.e. industry, retailers, consumer organisations, environmentalists, workers organisations and media, and a fair balance in the composition of the Jury between these various groups should be sought.

B) LEGAL BASIS OF THE PROPOSAL

1. As mentioned above, products subject to mass consumption can contribute to important environmental degradations that might occur at all phases of the life cycle of the products. The introduction of the Eco-label as a means of changing the conception of products, taking fully into account the objectives of the scheme, aims at preventing and minimizing their environmental impact during the manufacturing process, consumption and use as well as during disposal after use.
2. Existing or future independent Eco-label schemes for 'ecological' products might continue to exist. However, care must be taken to avoid confusion among these different schemes:
3. In view of the expected improvements in environmental performance of products subject to mass consumption through the market oriented instrument and its impact at source, the legal basis for the Regulation should be Article 130S of the Treaty.
4. There are important reasons why this Regulation is proposed instead of a Directive. Firstly, a Regulation will be implemented more quickly which will enable a Community-wide Eco-label scheme to be established at the earliest opportunity. Secondly, a Regulation will be implemented at the same time and in the same manner in all Member States without any delay or difference resulting from transposition into national law.

C) COMMENTS ON INDIVIDUAL ARTICLES OF THE PROPOSED REGULATION

Article 1

1. Article 1 describes the objectives of this Regulation. As already covered in A.1 above, these are to encourage business to produce products which are as environmentally friendly as possible and to provide consumers with better information about the environmental performance of products.

2. A Community-wide scheme is proposed so that the integrity of the single market can be ensured and uniformly high levels of protection for man and the environment can be achieved across the Community.

Article 2

1. This Article excludes certain specific product groups from the Scheme, such as food, drink and pharmaceuticals, which are governed by other regulations. The initial intention is to cover consumer products, that is products which consumers in the private or public sectors could normally have access to. It is recognised that an Eco-label scheme might also be applied to other groups of products and services but any extension of the scope of the current proposal would add to the complexity of the scheme and should only be considered at a later stage.
2. The scheme does not include the awarding of a label to packaging in its own right because of the potential confusion between the environmental performance of the packaging and that of the product itself. However, it is envisaged that the packaging of a product will be one of the factors taken into account when evaluating the environmental performance of the product as a whole.

Article 3

1. Article 3 makes clear that the terms "substance" and "preparation", have specific meanings as defined in the Directive 67/548/EEC.
2. The Article also defines the term "product group" in the context of the Eco-label. A product group needs to be carefully defined so that products within the same group are seen by the consumer as being true alternates. Care must also be taken when defining products within a group to ensure that the operation of the scheme does not lead to any undue distortions of the market place.

3. The establishment of specific criteria will include consideration of the phases of the life cycle of products, i.e. manufacturing, distribution, consumption and use as well as disposal after use, which is the definition of the "cradle-to-grave" approach.

Article 4

There are a number of Community provisions relating to the classification, packaging and labelling of products, in particular dangerous substances and preparations, and this Article makes it clear that this Regulation has no effect on the application of these other provisions.

Article 5

1. Article 5 summarises some of the key points about the definition of a product group and points to the procedures for establishing a new group.
2. Formal proposals for new product groups should be made through the Competent Bodies in the Member States but it is important that any individual, group or organisation in a Member State should be able to suggest new groups to the relevant Competent Body. This will help to contribute to the openness of the scheme.
3. In each case, the Competent Body in the Member State in which the request originates shall decide if it wishes to forward a request to the Commission for the adoption of a product category through the Advisory Committee procedure. The request must be accompanied by all information necessary for the Committee to examine the request.

Article 6

1. This Article underlines the requirement that, regardless of the environmental qualities of a product, it must also comply with all applicable health and safety standards if it is to qualify for a label.
2. It is also clear that products which are manufactured using processes which do not conform to existing Community environmental legislation should not be awarded a label.

Article 7

1. Article 7 outlines the approach to establishing specific environmental criteria for a product group. It is clear that the Eco-label scheme must consider the environmental performance of a product during all stages of its production, use and disposal. Anything less would not be credible. When a product group has been chosen a series of environmental criteria need to be established for that product group against which individual products can be assessed. All the potential environmental impacts at different stages of a normal product's life cycle are illustrated in the form of the matrix shown in Annex I.
2. This matrix therefore forms a guide when establishing criteria for a product group. Judgements need to be taken on the main individual environmental impacts for which levels of performance need to be set and these must be high enough to ensure a high level of environmental protection. Taken together the chosen standards form the agreed performance criteria for the product group.
3. In establishing criteria, the Commission will address itself to the European Environment Agency which, in accordance with the tasks which have been conferred on it by the Council regulation (EEC) 1210/90, in particular in Article 20⁽⁵⁾, will carry out necessary preparatory work.

(5) OJ No L 120, 11.5.1990.

4. In setting the criteria recognition must also be taken of the feasibility of business meeting the criteria. The scheme is voluntary and it must therefore make commercial sense for at least some businesses to make the necessary design and/or process changes required before the firm has a realistic prospect of being awarded a label.
5. A further consideration is that products bearing the label must be visible and available to the consumer otherwise the scheme will not be effective as a market mechanism. This is a complex issue since the market penetration of products bearing the label will depend on many factors other than the performance criteria which are chosen. Nevertheless, when setting criteria, consideration will need to be given to this issue.
6. Applicants for a label need to have the confidence that, if granted, the label can be used for a known period of time. The criteria for a particular product group will therefore be set for a fixed period which may be extended. It is expected that the normal period of validity for criteria will be 3 years but this may be varied. For instance, where the technology associated with a product is changing rapidly it may be desirable to shorten the period of validity. Alternatively, it may be appropriate to establish criteria which require an improvement in product performance over fixed periods of time. It will clearly be in the applicant's interests to apply for a label as soon as possible after the criteria are published since this will maximise the time during which the applicant can use the label.

Article 8

Article 8 draws attention to the procedure for adopting specific criteria as defined in Article 9.

Article 9

1. Article 9 describes the operation of the Advisory Committee which provides advice on the measures prepared by the Commission. These measures include the establishment of new product categories and the definition of criteria referred to in Articles 6 and 7. In preparing these measures, the Commission will be assisted by independent experts on the individual product groups.
2. The Advisory Committee is established in compliance with Article 2 of the Council decision 87/373/EEC.

Article 10

1. This Article describes the Eco-label and summarises some of the key points covering the award of the label and its use. It is an objective of the scheme that the label should achieve a high level of public recognition in the Community and signify an official endorsement of the environmental performance of the products to which it is awarded. The award of a label can be expected to have considerable commercial value and so business will be encouraged to design and produce products which will be able to qualify for the label. The label represents a market mechanism for informing consumer choice and achieving an improvement in the quality of the environment by encouraging manufacturers to develop products with an improved environmental performance.
2. Applications for the use of the label must be made to Competent Bodies, appointed by the Member States, who are responsible for evaluating applications from businesses. The applications must contain all the necessary information required to compare the environmental performance of the product with the agreed criteria for the product group. The procedure for awarding a label is covered in Articles 12, 13 and 14.
3. When a label is awarded to an individual product it provides consumers with the information that it represents a product of the highest environmental quality. At the same time the consumer wishes to know the reason why the product is less harmful to the environment. That is why the principle reasons for awarding the label will be stated near the label.

4. The criteria applicable to a product category are adopted at the Community level via the Advisory Committee procedure and remain valid for a fixed period dependent on the product category. A label may only be awarded for a period during which the criteria applicable to the product group are valid.
5. It is clearly important that the use of the Eco-label should be strictly controlled and this is the responsibility of the Competent Body in the relevant Member State.
6. The label must also not be used in a way which might mislead the consumer.

Article 11

This Article provides for the establishment by Member States of the Competent Bodies which will be responsible for handling applications for Eco-labels and for concluding contracts for the use of labels once the necessary procedures have been followed. The Member State may appoint an existing organisation as the Competent Body or may decide that a new body needs to be established.

Article 12

1. Article 12 describes the process of awarding a label where a product group has already been agreed along with the associated criteria.
2. Manufacturers or importers may only make an application for a label to the Competent Body of the Member State in which the product is manufactured or into which it is imported into the Community. The applicant must provide the Competent Body with all the information required to assess the environmental performance of the product. The Competent Body is then responsible for comparing the environmental performance of the product with the agreed criteria for the appropriate product group. The Competent Body can also ask the applicant to provide

samples of the product or its components for independent testing. This may be important where the Competent Body has doubts about a claim being made by an applicant.

3. The results of all product evaluations should be sent to the Jury for decision.
4. An undertaking may wish to withdraw an application for a label or stop using an existing label. In these cases the relevant Competent Body should be notified of the reasons for such action.

Article 13

1. Article 13 describes the functioning of the Jury which, on the basis of proposals submitted by the Competent Bodies, awards the label to individual products which best meet the requirements. The Jury is nominated by the Council. The composition of the Jury should ensure a fair balance between the different interest groups, i.e. industry, retailers, consumer organisations, environmentalists, workers organisations and the media.
2. The Jury will establish its own rules of procedure.
3. The Jury communicates its decisions to the Commission which may raise objections within a period of two months if it identifies a clear error of judgement or in case of a major violation of procedures.

In addition an appeal procedure is provided for in this Article.

Article 14

This article describes the tasks of the European Environment Agency which fall into two main categories. It operates firstly in carrying out preparatory work in establishing specific criteria to be adopted through the Advisory Committee procedure. Then, in conjunction with the preparatory work, the Agency recommends the form and scope of information necessary to evaluate individual applications. In this context it also assists the Jury in the execution of its tasks in awarding a label to individual products.

Article 15

1. Article 15 provides for the Competent Body to draw up contracts for the use of the Eco-label. The contract will cover the conditions of use of the label including a specification of the period for which the label can be used.
2. It is intended that the Eco-label scheme will be self-financing and this will be achieved through the levying of fees for the assessment of product applications and for the use of the label. Fees will be applied uniformly throughout the Community and will be specified in the contract. Care ought to be given that fees are fixed at levels which do not discourage small and medium sized enterprises from applying for a label.

Article 16

1. This Article deals with the issue of confidentiality of commercial information. To evaluate an application for a label all information, confidential or not, which is necessary to evaluate the proposal may need to be made available to the Competent Bodies, the Environment Agency and Jury. Outside these bodies confidentiality of information can be maintained subject to a full justification being given and to agreement by the relevant Competent Body.

2. An application for a label may be withdrawn at any time if the applicant feels unable to comply with the requests for information from the Competent Body.
3. Certain information will need to be made available in all cases following the award of a label namely, the name of the product, the manufacturer or importer of the product and the reasons for awarding the label.
4. However, all persons involved in the assessment process should not disclose any information to which they have gained access through the proceedings.

Article 17

1. Information about the chosen product groups and associated criteria needs to be made widely available and up-dated regularly. Article 17 provides for this information to be published in the Official Journal. Similarly, details of the products awarded labels will also be published in the Official Journal.
2. It is also important that the identity of the Competent Bodies in the Member States is well known and their names will therefore be published in the Official Journal.

Article 18

1. This Article covers the steps which Member States need to take to publicise the Eco-label scheme. The scheme must be made effective throughout the Community from the date of the launch. This means that before the launch Member States will need to provide business and the consumer with information about the objectives of the scheme and the way that it will operate. Business in particular will need time to assess the implications of the scheme and to prepare proposals for products to be included in the scheme.

2. Once the scheme has been launched Member States will also need to provide consumers with information about the product groups which have been selected, the criteria for the product groups and the products which have been awarded a label.

Article 19

1. It can also be expected that businesses will include a mention of the award of a label in their product advertising. Reference to the award of a label will need to be closely controlled to avoid misleading the consumer.
2. In particular, any reference to the Eco-label in promotional material must only be made once a label has been awarded and then only in the context of the specific product for which the label has been awarded.

Article 20

This Article highlights the fact that Member States need to put in place legal or other measures, if they do not already exist, to prevent infringement of the provisions of the Regulation covering the use of the Eco-label. The Member States will inform the Commission of these measures.

Article 21

Article 21 covers the basic principle that the Award Scheme for Eco-Label must not be used as a way of restricting the trade or marketing of products within the Community.

Article 22

It is recognised that after a period of time it may be necessary to modify the regulation in order to improve the efficiency of the system for awarding the Eco-label. Modifications may prove to be necessary in a number of areas and this Article anticipates that the Commission will possibly propose provisions to this effect on the basis of a review which it will carry out at the latest five years after the entry into force of the regulation. The provisions will concern in particular the continuation of the co-existence of national schemes with the Community scheme as well as the field of application. The Commission in accordance with Article 20 of the Council Regulation 1210/90 may equally propose to transfer the task of determining the specific criteria to the European Environmental Agency.

Article 23

Member States will need time to implement certain aspects of the Regulation and it is proposed that it should come into force 12 months after its publication.

Proposal for a
COUNCIL REGULATION (EEC)
on a Community award scheme for an Eco-label

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,
and in particular Article 130s thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Having regard to the Opinion of the Economic and Social Committee,

Whereas the objectives and principles of the Community's environment policy, as set out in the European Community Action Programmes on the Environment⁽¹⁾, aim, in particular, at preventing, reducing and as far as possible eliminating pollution, particularly at source, and ensuring sound management of raw materials resources, on the basis also of the 'polluter pays' principle; whereas the Fourth European Community Action Programme on the Environment (1987-1991)⁽²⁾ highlights the opportunity to develop a policy towards clean products;

Whereas the Council Resolution of 7 May 1990⁽³⁾ invited the Commission to submit as soon as possible a proposal for a Community-wide Eco-labelling scheme covering the environmental impact during the life cycle of the product;

Whereas the European Parliament, in its resolution of 19 June 1987 on waste and landfill policy⁽⁴⁾, supported a Community Environmental Label for eco-products;

(1) OJ No C 112, 20.12.1973, p. 1.

OJ No C 139, 13.6.1977, p. 1.

OJ No C 46, 17.2.1983, p. 1.

OJ No C 70, 18.3.1987, p. 3.

(2) OJ No C 328, 7.12.1987, p. 1.

(3) OJ No C 122, 18.5.1990, p. 2.

(4) OJ No C 190, 20.7.1987, p. 154.

Whereas there is increased public interest in information about products which are environmentally less harmful; whereas at least one Member State has already an award scheme for such products and several other Member States are considering the setting up of such a scheme;

Whereas a system to award an Eco-label for environmentally less harmful products will highlight more benign alternatives and therefore provide consumers and users with guidance;

Whereas such guidance can best be achieved by establishing uniform criteria for the award scheme which apply throughout the Community; whereas existing or future independent award schemes can continue to exist for a period of five years, and at the end of this period the Commission should reexamine this solution in the light of the experience gained;

Whereas the award scheme should be based on voluntary application; whereas such an approach, in relying on the market forces, will also contribute to research and development, in particular of less polluting technologies, and therefore lead to innovation;

Whereas uniform application of the criteria and compliance with procedures should be ensured throughout the Community;

Whereas the award scheme for the Eco-label will take into account the interests of all groups concerned, industry, commerce, consumers and environmentalist, and therefore should provide for involvement of these groups in the award procedure to individual products which conform to the established criteria;

Whereas this label should complement other existing or future Community labelling systems in particular those giving information on energy consumption;

Whereas the European Environment Agency should be made responsible for certain tasks in connection with the preparation of environmental labels and criteria for the award of such labels to products, technologies, goods, services and programmes which preserve natural resources,

HAS ADOPTED THIS REGULATION :

CHAPTER 1 : OBJECTIVES AND FIELD OF APPLICATION

Article 1

Objectives

1. This Regulation establishes a Community award scheme for an Eco-label with a view to promoting products which are environmentally less harmful, and therefore have an overall environmental impact significantly less than that of other products in the same product group.
2. The award scheme is designed to :
 - encourage manufacturers to design and produce products which have a reduced environmental impact during manufacturing, distribution, consumption and use as well as during disposal after use;
 - provide consumers with better information on the environmental performance of products.

These environmentally more benign product alternatives should not compromise product or workers' safety nor significantly affect the fitness for use of the product.

3. The reduction of environmental impact will be achieved through the minimisation of :
 - use of natural resources and energy resources;
 - emissions into air, water and to soil;
 - generation of waste and noise;

and through the maximisation of product life and, where applicable, through the use of clean technologies to ensure a high level of environmental protection.

Article 2

Field of application

This Regulation shall not apply to food, drink or pharmaceuticals.

Article 3

Definitions

For the purpose of this Regulation:

- (a) 'substance' means chemical elements and their compounds as defined in Article 2 of Council Directive 67/548/EEC⁽⁵⁾;
- (b) 'preparation' means mixtures or solutions as defined in Article 2 of Council Directive 88/379/EEC⁽⁶⁾;
- (c) 'product group' means products which serve similar purposes and which have equivalence of use.
- (d) 'cradle to grave' means the life cycle of a product from manufacturing, distribution, consumption and use to disposal after use.

Article 4

Other Community provisions

The provisions laid down in this Regulation shall apply without prejudice either to other Community provisions relating to the classification, packaging and labelling of products or to the provisions laid down in Council Directive 83/189/EEC⁽⁷⁾.

(5) OJ No 196, 16.8.1967, p. 1.

(6) OJ No L 187, 16.7.1988, p. 14.

(7) OJ No L 109, 26.4.1983, p. 8.

CHAPTER 11 : ESTABLISHMENT OF PRODUCT GROUPS AND CRITERIA

Article 5

Product groups

1. Product groups shall be established in accordance with the procedure laid down in Article 9.
2. Each product group shall be defined in such a way as to ensure that all competing products which serve similar purposes and which have equivalence of use are included in the same group.
3. General and specific criteria for each product group shall conform to the requirements of Articles 6 and 7.
4. Requests for the establishment of a new product group shall be addressed to the Competent Bodies referred to in Article 11. The Competent Body shall decide if it wishes to request the Commission to submit a proposal to the advisory committee referred to in Article 9.

Article 6

General principles

1. The Eco-label shall only be awarded to products which do not contravene Community health, safety and environment requirements.
2. The Eco-label shall not be awarded to substances and preparations classified as dangerous in accordance with Directive 67/548/EEC. Nor shall the Eco-label be awarded to products containing a substance or preparation classified as dangerous in accordance with the said Directive and likely to harm man and/or the environment.
3. The Eco-label shall only be conferred on products manufactured by a process which do not contravene Community environmental legislation and is unlikely to harm significantly man and/or the environment.

4. The Eco-label shall be awarded to products which meet the objectives set out in Article 1 and represent a "state of the art" approach in contributing to an improvement in the quality of the environment.

Article 7

Elaboration of specific criteria

1. Specific environmental criteria for each product group shall be established using a "cradle to grave" approach including consideration of the objectives set out in Article 1. The criteria shall be established by reference to the matrix format shown in Annex I, shall be based on the use of clean technologies where applicable and shall ensure a high level of environmental protection.
2. The European Environment Agency, hereinafter referred to as the "Agency", shall undertake, at the request of the Commission, preparatory work of a scientific and technical nature necessary for the establishment of criteria.

Article 8

Adoption of the specific criteria

Without prejudice to Article 22, the specific environmental criteria referred to in Article 7 for each product group shall be adopted by the Commission in accordance with the procedure laid down in Article 9.

Article 9

Advisory Committee

1. The Commission shall be assisted by a committee of an advisory nature composed of the representatives of the Member States and chaired by the representative of the Commission.

The representative of the Commission shall submit to the committee a draft of the measures to be taken. The committee shall deliver its opinion on the draft, within a time limit which the chairman may lay down according to the urgency of the matter, if necessary by taking a vote.

The opinion shall be recorded in the minutes; in addition, each Member State shall have the right to ask to have its position recorded in the minutes.

The Commission shall take the utmost account of the opinion delivered by the committee. It shall inform the committee of the manner in which its opinion has been taken into account.

2. The Commission may consult the committee on any matter related to the operation of the award scheme for an Eco-label.

CHAPTER III : AWARD OF AN ECO-LABEL TO INDIVIDUAL PRODUCTS

Article 10

The Eco-label

1. To achieve the objectives set out in Article 1, the Eco-label, illustrated in Annex II, shall be awarded to products best fulfilling the requirements of Articles 6 and 7.
2. Applications for the use of the label shall be made in accordance with the procedures set out in Article 12.

The decision to award a label to individual products amongst those which best fulfill the criteria referred to in Articles 6 and 7 shall be taken by the Jury established under Article 13.

3. The main reasons for granting the Eco-label shall be mentioned, if possible, in or near the label in code form and shall form an integral part of the label. The code shall be adopted in accordance with the procedure set out in Article 9.

4. The label shall be awarded for a fixed period of time, dependent on the period of validity of the criteria, which may be altered where necessary after review.
5. The Eco-label shall not be used under any circumstances before a contract on the conditions of use has been concluded with the Competent Body to which the product application was submitted.
6. The Eco-label shall not be used in a manner likely to mislead the consumer.

Article 11

Designation of Competent Bodies

Each Member State shall designate the body or bodies, hereinafter referred to as the "Competent Body", responsible for carrying out the tasks detailed in Article 12 and inform the Commission thereof. The Competent Body shall be independent from industrial or commercial interests.

Article 12

Requests for award of an Eco-label

1. Manufacturers or importers may apply for award of a label to the Competent Body in the Member State in which the product is manufactured or into which the product is imported.

The Competent Body shall assess the environmental performance of the product by reference to the agreed general principles and specific performance criteria for the product group.

2. The Competent Body may also request that applicants for a label submit all or part of the product for testing.
3. After the product assessment the Competent Body shall decide if a request for the award of a label shall be submitted to the Jury provided for in Article 13.

4. If an application for a label is rejected the Competent Body shall advise the applicant of the reasons for rejection.

Member States shall provide for an appeal procedure in such cases.

5. An undertaking may withdraw an application for a new label, or cease to use an existing label, after notifying the Competent Body.

Article 13

The Jury

A Jury is hereby established for the award of labels to individual products amongst those which best meet the requirements of Articles 6 and 7.

1. The Jury shall consist of 18 full members, there being for each Member State one representative and one representative of the following interest groups :
 - industry
 - commerce
 - consumer organisations
 - environmental organisations
 - workers organisations
 - media.
2. An alternate member shall be appointed for each full member.
3. Full members and alternate members of the Jury shall be nominated by the Council on the basis of :
 - a proposal from the Member States for the representatives of Member States
 - a proposal from the Commission for the representative of the interest groups.

The Council in nominating the members of the Jury shall endeavour to achieve a fair balance in the composition of the Jury between the various interest groups.

4. The list of the members and the alternate members shall be published in the Official Journal of the European Communities for information purposes.
5. The term of office of full members and alternate members shall be three years. Their appointments shall be renewable.
6. On expiry of their term of office, the full members and alternate members shall remain in office until they are replaced or their appointments are renewed.
7. A member's term of office shall end before the expiry of the three year period with his resignation or following a communication from the Member State concerned indicating that the term of office is terminated.

For the remainder of the term of office, a member shall be replaced in accordance with the procedure laid down in paragraph 3.

8. The Jury shall elect a chairman and an alternate and adopt its rules of procedure.
9. The Jury shall take all decisions on the basis of a two-thirds majority of the members.
10. In considering the proposals from the Competent Bodies the Jury shall, in awarding labels, select those products which best meet the requirements set out in Articles 6 and 7.
11. If the Jury decides not to award the label to an individual product, the reasons for the rejection shall be stated.
12. The Jury shall communicate its reasoned decisions to the applicants and to the Commission. The Commission shall publish them in the Official Journal of the European Communities to enable all interested parties to make their comments.

The Commission may of its own initiative raise an objection to such decisions, within a period of two months, if it identifies a manifest error of judgement or in case of major violation of procedures. In this case it shall return the matter to the Jury for reconsideration.

Furthermore, any person for whom the decision of the Jury constitutes a grievance may within a period of 30 days from publication of the decision in the Official Journal notify the Commission of a request to revise the decision on grounds of manifest error or major violation of procedures. The Commission shall examine this request in the framework of the appeal procedure laid down in the second subparagraph. The Commission shall return the case to the Jury for reconsideration if it considers that the request should be accepted and shall inform the applicant accordingly. If the request cannot be accepted the Commission shall notify the applicant of the decision to reject the request.

The decision of the Jury shall be considered approved by the Commission if the latter has not made any objection within the two-month period.

Article 14

The European Environment Agency

1. The Agency shall undertake, in consultation with appropriate specialized scientific and technical bodies, preparatory work necessary for the establishment of the specific criteria as laid down in Article 7(2).
2. The Agency, in cooperation with the Competent Bodies, shall provide suggestions on the format and scope of the information to be provided to the Competent Body by an applicant as set out in Article 12(1) and on the procedures to be followed by Competent Bodies when evaluating and transmitting the request for an Eco-label.
3. The Agency shall assist the Jury in carrying out its tasks.

Article 15

Terms of use

1. The Competent Body shall issue contracts for the terms of use of the label.
2. The terms and conditions of the use for the label shall include the fee to be paid by the applicant for the use of the label. This fee should be set at a level to cover all the reasonable costs incurred by the Competent Body and the Jury.

These terms of use shall also include provisions for withdrawing the authorisation to use the label.

3. The duration of the authorisation for the use of the label shall not exceed the period of validity of the criteria for the product group.

CHAPTER IV : OTHER PROVISIONS

Article 16

Confidentiality

1. If the manufacturer or importer considers the information obtained in pursuance of Article 12 to be confidential, commercially sensitive and, if released, likely to cause his business industrial or commercial harm, the applicant for a label may indicate what specific details of the information should be kept secret from all other persons other than the Competent Bodies, the Members of the Jury and the Commission. Full justification must be given in such cases.
2. The Competent Body receiving the application shall decide which information should be kept secret and inform the applicant for the label.

3. In all cases, the following information shall be made available :
 - the name of the product;
 - the manufacturer or importer of the product;
 - the reasons and relevant information for awarding or refusing the label.

4. Competent Bodies and the Jury members shall be required not to disclose information to which they have gained access through the proceedings.

Article 17

Publication

1. The Commission shall publish the product groups and the associated specific criteria in the Official Journal of the European Communities.

2. The Commission shall also ensure that the list of products for which an Eco-label has been granted and the name of the relevant manufacturers or importers is published.

3. The Commission shall also publish the names of the Competent Bodies in the Official Journal.

Article 18

Information

Member States shall ensure that consumers and undertakings are informed about the following :

- (a) the objectives of the Community Award Scheme for an Eco-label;
- (b) product groups which have been selected;
- (c) the general and specific criteria for product groups;
- (d) the products which have been awarded an Eco-label;
- (e) the procedures for applying for a label;
- (f) the Competent Body in the Member State.

Article 19

Advertising

1. References to the Eco-label in advertising shall only be made once a label has been granted and only in relation to the specific product for which the label has been granted.
2. Any advertising or labelling which might lead to confusion with the Eco-label shall be prohibited.

Article 20

Implementation

Member States shall inform the Commission on measures they have taken to ensure compliance with this Regulation.

Article 21

Free circulation within the Communities

The fact that an Eco-label has been awarded or refused to a product shall not impede, prohibit or restrict the marketing of this product.

Article 22

Revision

Not later than 5 years after the entry into force of this Regulation the Commission shall review the scheme in the light of experience gained during its operation, and in particular

- whether it is appropriate that national systems should continue to exist alongside the Community system
- the field of application of the scheme as laid down in Article 2.

The Commission shall, if necessary, propose modifications to this Regulation.

In its proposals presented in accordance with Article 20 of Council Regulation 1210/90⁽⁸⁾ and not later than five years after the entry into force of this Regulation, the Commission shall propose the transfer to the Agency of the task of determining the specific criteria referred to in Article 8.

Article 23

Entry into force

This Regulation shall enter into force on 1 October 1991.

It shall apply from 1 October 1992.

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

Done at Brussels,

For the Council

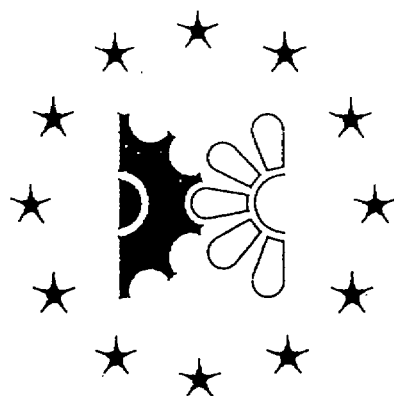
(8) OJ No L 120, 11.5.1990, p. 1.

ANNEX I

ASSESSMENT MATRIX

Product life cycle Environmental fields	Production	Distribution	Utilization	Disposal
Waste relevance				
Soil pollution and degradation				
Water contamination				
Air contamination				
Noise				
Consumption of energy				
Consumption of natural resources				
For a simplified model the following criteria are suggested : 0 almost none, negligible pollution; *moderate pollution; **considerable pollution				

ANNEX II



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DOCUMENTS

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