



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 18.01.1999
COM(1999) 21 final

96/312 (SYN)

Amended proposal for a
COUNCIL REGULATION (EC)
on a revised Community eco-label award scheme

(presented by the Commission pursuant to Article 189 a (2)
of the EC-Treaty)

EXPLANATORY MEMORANDUM

Pursuant to Article 189 (a) paragraph 2 of the EC Treaty, the Commission herewith submits an amended Proposal for a Council Regulation on a revised Community eco-label award scheme. The amended Proposal takes account of 7 of the 42 amendments proposed by the European Parliament which were adopted at its Plenary Session on 13 May 1998.

The Commission can accept in principle amendments 2, 4, 10, 15 and 18, which clarify further the Proposal, and it can partially accept amendments 5 and 13.

Amendment 2 underlines that environment NGOs and consumer organisations have an important role in the decision-making process. It is acceptable in principle to the Commission. NGOs have to be consulted in the process of setting the ecological criteria. However, the appropriate way for this consultation to proceed should be properly defined.

Amendments 4 and 10 aim to ensure for the Eco-label criteria a high level of environmental protection. They are acceptable in principle to the Commission and they confirm an already existing trend.

Amendment 15 aims to exclude medical devices from the scope of the Regulation. This provision will enlarge the present exclusion list of Regulation 880/92 (food, drinks and pharmaceuticals). The proposed sector is not of major relevance for the EU Eco-label. Therefore the amendment is acceptable to the Commission.

Amendment 18 aims to inform the Eco-label Competent Bodies of possible modifications of existing applications. The amendment is acceptable to the Commission because it is in line with present practice.

Amendment 5 aims to "provide more information on the label about the reasons for the award in order to assist consumers in understanding the significance of the award". The Commission can have a positive position only if the amendment is in addition to the existing Recital 10. The Commission suggests changing "more information" with "appropriate information".

Amendment 13 addresses the issue of the technical reliability of products. This amendment requires "fitness for use" to be one of the minimum criteria to be respected, similar to the requirement contained in Article 1 of the present Regulation. The principle of this proposed amendment is acceptable to the Commission. However it would be preferable to include it in, for example, Article 3(1) rather than as a separate Article.

The Commission has not accepted amendments 1, 3, 6-9, 11, 12, 14, 16, 17, 19-34, 50 or 52. Commentary on these amendments follows.

Amendments 6, 7, 9, 16, 17, 19-22 and 25 address the issue of a "Technical Committee for the Eco-label (TCEL)". The original idea of establishing the European Eco-label Organisation was rejected. It was proposed to establish a Technical Committee for the Eco-label (TCEL). The main difference with the proposed EEO is that the TCEL will have no legal personality, therefore the TCEL will only perform technical tasks. The Commission does not agree with the Parliament. The Commission thinks that the original idea of establishing the European Eco-label Organisation is still valid, therefore the Commission cannot accept the related amendments.

Amendments 5, 12 and 26 address the new graduated Eco-label logo. The original Commission Proposal to establish a Graduated Eco-label was rejected. The amendment approved (a proposal to keep one flower plus selected additional information for consumers) disregards completely the concept of the Graduated Logo, therefore it is not acceptable to the Commission.

Amendments 3 and 14 aim to broaden the scope of the Regulation to services. The introduction of services could constitute an interesting development for the EU Eco-label Scheme. However, in order to do this, some provisions of the Proposal need to be re-drafted and the Commission is not ready to re-consider its position at this stage. Therefore these amendments are not acceptable to the Commission.

Amendments 31-34 address a lowering of the fees. The amendments go further than the Commission Proposal to set a ceiling of ECU 40,000. It could be an interesting measure that could make the EU system competitive in economic terms. However the Commission recognises the necessity to take into account the financial situation of the Competent Bodies and their need to have sufficient resources for the promotion of the EU Eco-label. The amendments could lead to a too severe reduction of the fees. Therefore the amendments are not acceptable to the Commission.

Amendments 16, 17 and 27 aim to re-establish the Eco-label Consultation Forum. The amendments aim to re-incorporate the current system of consultation of interest groups (as in Article 6 of the existing Regulation) within the framework of the revised Regulation. The present role of the Consultation Forum is however not satisfactory. It is very rigid in delivering its policy opinion and does not always have the expertise to follow the technical projects. The concept of the Eco-label Consultation Forum is only partially acceptable because its role needs to be updated to take into account the experience of running the Scheme and the developments in ISO related to transparency and consultation. It should be stressed that the original Commission Proposal made a substantially improved and better focused provision for consultation at all stages. For this reason the Commission cannot accept amendments 16 and 27. Regarding the concept of "financial contribution" to consumer and environmental NGOs, mentioned in amendment 17, the Commission supports this principle. However, because there are provisions already in place to provide such funding outside the Eco-label Regulation, the Commission considers such an amendment superfluous.

Amendment 1 aims to change the legal basis of the Proposal: 130s(1) and 100a. The amendment introduced, in addition to Article 130s(1), refers to Article 100a and Article 189b of the Treaty, with the purpose of having the Proposal considered under the co-decision procedure. It is not acceptable to the Commission to refer to both 189c (co-operation) and 189b (co-decision), due to the conflicting nature of the two procedures.

Amendment 11 aims at promoting the use of eco-labelled products, calling on the Commission and other European and national public authorities to act as examples in the purchasing choices they make. Whereas this measure is of great interest it is impossible to accept it at this stage without prejudging the on-going assessment of the conditions applicable to the greening of public procurement, being carried out as a follow-up of the Commission Communication 143/98.

Amendments 22 and 25 delete the foreseen provision to make the Regulation applicable from the date on which the Commission decides that the EEO is in a position to perform its tasks. The Commission thinks the concept of the EEO is still valid. Therefore the two amendments cannot be accepted.

The Commission cannot accept amendment 23 because is contrary to comitology, or amendment 24, because it is a prejudgement of legal basis (189c).

Amendments 50 and 52 address the complementarity between the EU Eco-label and the national labels. Article 11 of the Commission Proposal seeks to define the complementarity between the EU Eco-label scheme and the national labels. The aim is not to ban the national labels, but on the contrary to harmonise after a period of 5 years those product groups for which there is a European Eco-label. This should avoid confusion for consumers as well as potential market and trade distortions for economic operators. The amendments reject the complementarity issue. For this reason the Commission cannot accept amendments 50 or 52.

Amendments 35-44: the Commission is not obliged to reply on the points related to the Financial Statement. Regarding this specific section the Commission takes note of the views of the Parliament.

COUNCIL REGULATION
on a revised Community eco-label award scheme

COMMISSION PROPOSAL

AMENDED PROPOSAL

Recital 4a (new)

Whereas for the acceptance by the general public of the European eco-label award system it is essential that environmental NGOs and consumer organisations have an important role in the decision-making process for the award of Community eco-labels;

Recital 9a (new)

Whereas in the various stages of the award of an eco-label efforts must be made to ensure a high level of environmental protection;

Recital 10

Whereas it is necessary to introduce a grading in the eco-label in order to stimulate and recognize further environmental improvements, over and above the hurdles set for the award of the label;

whereas it is necessary to introduce a grading in the eco-label in order to stimulate and recognize further environmental improvements, over and above the hurdles set for the award of the label; **whereas it is necessary to provide appropriate information on the label about the reasons for the award in order to assist consumers in understanding the significance of the award;**

Article 1

Objectives and Principles

2. The environmental impacts are identified on the basis of examination of the interactions with the environment, including use of energy

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and natural resources, during the entire life cycle of a product.

and natural resources, **and with due regard for a high level of environmental protection**, during the entire life cycle of a product.

Article 3

Eco-label criteria and assessment and verification requirements

1. Specific eco-label criteria shall be established according to product groups. These criteria will set out the requirements for each of the key environmental aspects mentioned in Article 2, which a product must fulfil in order to be considered for the award of an eco-label.
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Article 4

Scope

5. This Regulation shall not apply to food, drink or pharmaceuticals.
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Article 6

Awarding the eco-label

1. The application may refer to a product put on the market under one or more brand names. No new application will be required for modifications in the characteristics of products which do not affect compliance with the criteria
2. The application may refer to a product put on the market under one or more brand names. No new application will be required for modifications in the characteristics of products which do not affect compliance with the criteria. **The competent bodies must however be informed about these modifications.**

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DOCUMENTS

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