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)

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

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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 environment, health, climate and natural resources. The scheme is intended to promote those products which have a high level of environmental

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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[(6)], 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 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.

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(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[7].

(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,

HAVE ADOPTED THIS REGULATION:

Article 1

Subject matter

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

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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[8], 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[9], 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 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.

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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;

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.