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EC [European Community] Eco-Label

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**FAX COVER SHEET****DATE:** July 9, 1993**NUMBER OF PAGES TO FOLLOW:** 15

TO	PHONE	FAX
Dan Blank	456-6224	456-2710

Associate Director for
International Trade and Development
Office of Environmental Policy
National Security Council

FROM: Michelle Keene
Western Europe Program Manager

ORGANIZATION: EPA/OFFICE OF INTERNATIONAL ACTIVITIES**FAX:** 202-260-8512 **PHONE:** 202-260-4892

COMMENT:

Dan: I have the lead within EPA's Office of International Activities on dealing with the EC's Eco-Label program and have been working with Carl Mazza and others on this issue. Per your telephone conversation with Carl this week, to follow is EPA's version of an action cable to the U.S. Mission to the European Communities in Brussels, originally drafted by Commerce, concerning the EC's Eco-Label program. EPA is in agreement with industry's concerns that Commerce presented in their draft. However, there is a very strong consensus at EPA for the need to raise some broader concerns of the Eco-Label program with the EC, particularly the methodology the EC is using to award an Eco-label.

For your reference, I am also forwarding to you a copy of the EC regulation that establishes the voluntary Eco-Label program and a paper highlighting the U.S. pulp and paper industry's specific concerns with the EC's Eco-Label program. This paper was delivered to the EC two weeks ago by an official at Commerce.

Also for your reference, the key people on this issue in other agencies are:

- ✓ **Mary Saunders** -- 482-5823
Dept. of Commerce, Office of EC Affairs
- ✗ **Breck Milroy** -- 647-5947
Dept. of State, Bureau of Oceans, Environmental and Scientific Affairs, Environment Office
- ✓ **Chris Marcich** -- 395-3320
USTR, Deputy Assistant for Europe and the Mediterranean

If we have any difficulty getting Commerce to cooperate on the Eco-Label issue, or if we believe you can be of assistance in some other way, we will let you know. Thank you for assistance with this matter. Please feel free to call me (260-4892) if you have any questions or concerns.

U.S. CONCERNS ABOUT PROPOSED EC ECO-LABEL REGULATION

1. THIS IS AN ACTION CABLE. PLEASE SEE PARAGRAPH 7.

2. THE U.S. GOVERNMENT (USG) IS REVIEWING THE EUROPEAN COMMUNITY'S COUNCIL REGULATION ON ECO-LABELING (NO. 880/92). THE REGULATION MAY AFFECT U.S. EXPORTERS TO THE COMMUNITY. SINCE THE COMMUNITY HAS BEGUN ESTABLISHING AWARD CRITERIA FOR SUCH AN ECO-LABEL FOR CERTAIN PRODUCTS, THE USG WOULD LIKE TO ADDRESS CERTAIN CONCERNS AND QUESTIONS PERTAINING TO PRESENT AND FUTURE CRITERIA DRAWN UP BY THE COMMUNITY. (NOTE: COMMERCE RECENTLY DELIVERED AN AMERICAN FORESTRY AND PAPER ASSOCIATION REPORT TO THE COMMISSION OUTLINING THE PAPER AND PULP INDUSTRY'S CONCERNS. THE USG WOULD LIKE TO LOOK AT THE ISSUE FROM A BROADER PERSPECTIVE, BEYOND ONE INDUSTRY AND BEYOND JUST THE TRADE IMPLICATIONS.)

3. COUNCIL REGULATION NO. 880/92 ON A COMMUNITY ECO-LABEL AWARD SCHEME PROVIDES FOR THE ESTABLISHMENT OF ECOLOGICAL CRITERIA FOR SPECIFIC PRODUCT GROUPS TO ENABLE VERIFICATION OF THE REDUCED ENVIRONMENTAL IMPACT OF QUALIFYING PRODUCTS, BASED ON ANALYSIS OF THE LIFE CYCLE OF THE PRODUCT, FROM MANUFACTURING (INCLUDING CHOICE OF RAW MATERIALS) THROUGH DISTRIBUTION, CONSUMPTION AND USE TO DISPOSAL AFTER USE. THE REGULATION REQUIRES MEMBER STATES TO DESIGNATE COMPETENT BODIES TO ASSESS APPLICATIONS FOR THE ECO-LABEL BASED ON THESE CRITERIA. MANUFACTURERS OR IMPORTERS IN THE COMMUNITY MAY APPLY FOR AN ECO-LABEL ONLY TO THE COMPETENT BODY OR BODIES DESIGNATED BY THE MEMBER STATE IN WHICH THE PRODUCT IS MANUFACTURED OR FIRST MARKETED, OR INTO WHICH THE PRODUCT IS IMPORTED FROM OUTSIDE THE EC.

4. THE BASIC METHODOLOGY FOR DETERMINING THE AWARD CRITERIA IS BEING DEVELOPED FOR NUMEROUS PRODUCT CATEGORIES. THE FIRST OF THESE CRITERIA BEING DEVELOPED, BY A DANISH AD HOC WORKING GROUP, IS FOR PAPER PRODUCTS. THE APPROACH IS THAT OF AN ECO-PROFILE OR QUOTE "ECO-BALANCE" UNQUOTE, ARRIVED AT BY CALCULATING LOAD POINTS FOR VARIOUS PARAMETERS (E.G., SOLID WASTE, RENEWABLE RESOURCES, CO2 EMISSIONS) USED IN MEASURING ENVIRONMENTAL IMPACT. EACH PARAMETER IS WEIGHTED ACCORDING TO VALUES ASSIGNED ON THE BASIS OF THE RELATIVE IMPORTANCE OF THE CONCERN ASSOCIATED WITH THE PARAMETER. THE CRITERIA REQUIRE THAT QUOTE "ALL STEPS OF THE PRODUCTION PROCESS... MUST BE IN CONFORMITY WITH COMMUNITY HEALTH, SAFETY, AND ENVIRONMENTAL REGULATIONS." END QUOTE. THIS REQUIREMENT DOES NOT ADEQUATELY TAKE INTO ACCOUNT THE FACT THAT FOREIGN PRODUCERS ALSO MUST MEET THE REGULATORY AND STATUTORY REGULATIONS OF THE AUTHORITIES IN THE COUNTRY WHERE THEY ALREADY OPERATE, REGULATIONS WHICH MAY DIFFER SIGNIFICANTLY FROM THOSE IN THE COMMUNITY.

Criteria unclear and where criteria m/b met for reasons on p. 2.

5. THE USG SUPPORTS THE COMMUNITY'S EFFORTS TO PROVIDE ENVIRONMENTAL INFORMATION TO THE PUBLIC. HOWEVER, SINCE NO SCIENTIFIC METHODOLOGY FOR LIFE CYCLE ANALYSIS CURRENTLY EXISTS AT EITHER THE NATIONAL OR INTERNATIONAL LEVEL, INCLUDING UNDER THE INTERNATIONAL STANDARDS ORGANIZATION (ISO), THE USG IS UNCLEAR AS TO HOW THE COMMUNITY IS DEVELOPING AWARD CRITERIA FOR

THE ECO-LABEL BASED ON THIS METHODOLOGY. IN ADDITION, THE USG WOULD APPRECIATE MORE INFORMATION ABOUT THE SCIENTIFIC RATIONALE FOR DETERMINING THE SPECIFIC CRITERIA, PARAMETERS, HURDLES, AND LOAD POINTS USED.

6. IN ADDITION, THE USG IS CONCERNED THAT ANY CRITERIA ESTABLISHED BE TRANSPARENT AND NON-DISCRIMINATORY AND PROVIDE EQUAL MARKET ACCESS FOR NON-EC COMPANIES. ONE CONCERN IS CONFUSION OVER WHETHER A U.S. EXPORTER IS REQUIRED TO PERFORM STANDARDS TESTING AND CERTIFICATION IN THE COMMUNITY ITSELF, INSTEAD OF WITHIN THE UNITED STATES, IN ORDER TO RECEIVE THE ECO-LABEL. SUCH A REQUIREMENT WOULD BE A SIGNIFICANT DEPARTURE FROM CURRENTLY ACCEPTED STANDARDS TESTING AND CERTIFICATION REQUIREMENTS AND WOULD BE A TRADE BARRIER TO MARKET ACCESS FOR U.S. EXPORTERS. SOME U.S. INDUSTRY GROUPS ARE ALSO CONCERNED THAT THE CRITERIA DO NOT TAKE INTO CONSIDERATION LOCAL ECOSYSTEMS MANAGEMENT.

7. ACTION REQUESTED FOR USEC: PLEASE SCHEDULE MEETINGS WITH THE RELEVANT EC COMMISSION OFFICIALS IN DG III AND DG XI TO CONVEY U.S. CONCERNS AND QUESTIONS REGARDING THE ECO-LABEL REGULATION. IN ADDITION, THE USG WILL PROPOSE TO THE COMMISSION THAT THE ECO-LABEL REGULATION BE PLACED ON THE AGENDA OF THE 1993 U.S.-EC ANNUAL ENVIRONMENTAL BILATERALS TO BE HELD THIS FALL IN WASHINGTON AT WHICH TIME SEVERAL AGENCIES WOULD APPRECIATE A PRESENTATION ON THE COMMUNITY'S LIFE CYCLE ANALYSIS METHODOLOGY.

⑧ Fall 1993 US-EC Annual Env'l Bilaterals
In DC

KJ - Your copy

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(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 880/92

of 23 March 1992

on a Community eco-label award scheme

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 ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Whereas the objectives and principles of the Community's environment policy, as set out in the European Communities' action programme on the environment ⁽⁴⁾, aim, in particular, at preventing, reducing and as far as possible eliminating pollution, as a priority 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 to 1992) ⁽⁵⁾ highlights the importance of developing a policy towards clean products;

Whereas the Council resolution of 7 May 1990 ⁽⁶⁾, invited the Commission to submit as soon as possible a proposal for a Community-wide eco-labelling scheme covering the environmental impact during the entire life cycle of the product;

Whereas the European Parliament, in its resolution of 19 June 1987 on the waste disposal industry and old waste dumps ⁽⁷⁾, supported a European label for clean products;

⁽¹⁾ OJ No C 75, 20. 3. 1991, p. 23, and OJ No C 12, 18. 1. 1992, p. 16.

⁽²⁾ OJ No C 13, 20. 1. 1992, p. 37.

⁽³⁾ OJ No C 339, 31. 12. 1991, p. 29.

⁽⁴⁾ 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.

⁽⁵⁾ OJ No C 328, 7. 12. 1987, p. 1.

⁽⁶⁾ OJ No C 122, 18. 5. 1990, p. 2.

⁽⁷⁾ OJ No C 190, 20. 7. 1987, p. 154.

Whereas there is increased public interest in information about products with reduced environmental impact; whereas some Member States have 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 products with reduced environmental impact 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 to apply throughout the Community;

Whereas, while existing or future independent award schemes can continue to exist, the aim of this Regulation is to create the conditions for ultimately establishing an effective single environmental label in the Community;

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

Whereas uniform application of 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 the principal groups concerned and therefore should provide for appropriate involvement of these groups in the definition of product groups and specific ecological criteria for each product group;

Whereas consumers and undertakings should be informed by appropriate means about the eco-label award scheme;

Whereas this label should complement other existing or future Community labelling systems,

HAS ADOPTED THIS REGULATION:

Article 1

Objectives

This Regulation establishes a Community eco-label award scheme which is intended to:

- promote the design, production, marketing and use of products which have a reduced environmental impact during their entire life cycle,
- and
- provide consumers with better information on the environmental impact of products,

without, however, compromising product or workers' safety or significantly affecting the properties which make a product fit for use.

Article 2

Scope

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 of 27 June 1967 on the approximation of the laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances ⁽¹⁾;
- (b) 'preparation' means mixtures or solutions as defined in Article 2 of Council Directive 67/548/EEC;
- (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, including the choice of raw materials, distribution, consumption and use to disposal after use.

Article 4

General principles

- 1. The eco-label can be awarded to products which meet the objectives set out in Article 1 and which are in conformity with Community health, safety and environmental requirements.

⁽¹⁾ OJ No L 196, 16. 8. 1967, p. 1. Directive as last amended by Directive 91/410/EEC (OJ No L 228, 17. 8. 1991, p. 67).

- 2. The eco-label shall in no case be awarded:

- (a) to products which are substances or preparations classified as dangerous in accordance with Directives 67/548/EEC and 88/379/EEC ⁽²⁾.

The label may be awarded to products containing a substance or preparation classified as dangerous in accordance with that Directive in so far as the products meet the objectives set out in Article 1;

- (b) to products manufactured by processes which are likely to harm significantly man and/or the environment.

- 3. Products imported into the Community, for which the award of an eco-label in accordance with this Regulation has been requested, must at least meet the same strict criteria as products manufactured in the Community.

Article 5

Product groups and ecological criteria

- 1. The conditions for awarding the label shall be defined by product groups.

Product groups, the specific ecological criteria for each group and their respective periods of validity shall be established in accordance with the procedure laid down in Article 7 following the consultation procedure provided for in Article 6.

- 2. The Commission shall begin these procedures at the request of the competent body or bodies referred to in Article 9, or on its own initiative. A competent body may act on its own initiative or at the request of any interested organization or individual; in the latter case it shall decide whether such a request is appropriate. Before submitting a request to the Commission the competent body shall conduct appropriate consultation of interest groups and inform the Commission of the results thereof.

- 3. 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.

- 4. The specific ecological criteria for each product group shall be established using a 'cradle-to-grave' approach based on the objectives set out in Article 1, the general principles set out in Article 4 and the parameters of the indicative assessment matrix shown in Annex I. The criteria must be precise, clear and objective so as to ensure uniformity of application by the competent bodies. They must ensure a high level of environmental protection, be based as far as

⁽²⁾ OJ No L 187, 16. 7. 1988, p. 14.

possible on the use of clean technology and, where appropriate, reflect the desirability of maximizing product life.

Should it prove necessary to adapt the indicative assessment matrix to technical progress, such adaptation shall be made in accordance with the procedure laid down in Article 7.

5. The period of validity of product groups shall be about three years. The period of validity of a criterion may not exceed the period of validity of the product groups to which it relates.

Article 6

Consultation of interest groups

1. With a view to the definition of the products groups and the specific ecological criteria referred to in Article 5 and before submitting a draft to the Committee referred to in Article 7, the Commission shall consult the principal interest groups who shall meet for this purpose within a consultation forum. In so doing, the Commission shall take account of the results of national consultations.

2. The forum should involve at least the Community-level representatives of the following interest groups:

- industry ⁽¹⁾,
- commerce ⁽¹⁾,
- consumer organizations,
- environmental organizations.

Each of them may be represented by having a maximum of three seats.

The participating interest groups should ensure appropriate representation according to the product groups concerned and having regard to the need to ensure continuity in the work of the consultation forum.

3. The rules of procedure of the forum shall be established by the Commission in accordance with the procedure laid down in Article 7.

4. The period allowed for the consultation of the forum may not exceed six weeks in any one case.

5. The Commission shall forward the outcome of the consultations to the committee referred to in Article 7 together with the draft measures to be adopted.

Article 7

Committee

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

⁽¹⁾ Including trade unions as appropriate.

2. 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. The opinion shall be delivered by the majority laid down in Article 148 (2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

3. The Commission shall adopt the measures envisaged if they are in accordance with the opinion of the committee.

4. If the measures envisaged are not in accordance with the opinion of the committee, or if no opinion is delivered, the Commission shall, without delay, submit to the Council a proposal relating to the measures to be taken. The Council shall act by a qualified majority.

5. If the Council has not acted within three months from the date of referral to it, the proposed measures shall be adopted by the Commission.

Article 8

The eco-label

1. The eco-label shall bear the logo shown in Annex II.

2. Applications for the award of the label shall be made in accordance with the procedures laid down in Article 10.

3. The decision to award a label to individual products which fulfil the criteria referred to in Articles 4 and 5 shall be taken by the competent bodies referred to in Article 9 in accordance with the procedure laid down in Article 10.

4. In accordance with the procedure laid down in Article 7, the Commission shall decide on a case-by-case basis whether it is possible to state on the label the principal reasons for awarding the eco-label and establish rules for this purpose.

5. The label shall be awarded for a fixed production period which may in no circumstances exceed the period of validity of the criteria.

Where the criteria relating to products are extended without change, the validity of the label may be extended for the same period.

6. The eco-label shall under no circumstances be used before the conclusion of a contract covering the conditions of use as provided for in Article 12.

*Article 9***Designation of competent bodies**

1. Within six months from the entry into force of this Regulation each Member State shall designate the body or bodies, hereinafter referred to as the 'competent body (bodies)', responsible for carrying out the tasks provided for in this Regulation, particularly in Article 10, and shall inform the Commission thereof.

2. The Member States shall ensure that the composition of the competent bodies is such as to guarantee their independence and neutrality and that the competent bodies apply the provisions of this Regulation in a consistent manner.

*Article 10***Applications for the award of an eco-label**

1. Manufacturers or importers in the Community may apply for the award of an eco-label only to the competent body or bodies designated by the Member State in which the product is manufactured or first marketed or into which the product is imported from a third country.

2. Before proceeding to an assessment of applications, the competent body shall consult the registers referred to in paragraph 9. The competent body shall assess the environmental performance of the product by reference to the principles in Article 4 and the specific criteria for the product groups in Article 5. For this purpose, all required certification and documents (including the results of independent testing) shall be presented to the competent body.

3. After the product assessment, the competent body shall decide whether to award a label. If it decides that a label should be awarded, it shall notify the Commission of its decision and enclose the full results of the assessment together with a summary thereof. A standard summary form shall be established by the Commission in accordance with the procedure laid down in Article 7.

Within five days following notification the Commission shall forward to the competent bodies of the other Member States a copy of the aforesaid decision and summary as well as, at their request, a copy of the full results of the assessment.

4. After a period of 30 days following the dispatch of this notification to the Commission the competent body may implement the award unless the Commission has by that time informed the competent body of reasoned objections to the award. If such objections are raised and cannot be resolved by informal consultations, the Commission shall take a decision on the proposed award in accordance with the procedure laid down in Article 7.

5. If the competent body decides to award a label to a product already rejected by the competent body of another Member State, it shall draw the Commission's attention to this fact when notifying its decision under paragraph 3. The Commission shall in all such cases take a decision on the proposed award in accordance with the procedure laid down in Article 7.

6. In the cases referred to in paragraphs 4 and 5, the Commission shall, within 45 days after the receipt of the decision of the competent body to award a label, submit a draft of the measures to be taken to the committee referred to in Article 7.

7. If an application for the award of an eco-label is rejected, the competent body shall immediately inform the Commission and advise the applicant of the reasons for the rejection.

8. On receiving an application for a label, the competent body may conclude that the product does not fall within a product group for which criteria have already been agreed. In these cases, the competent body shall decide if a proposal for the establishment of a new product group should be forwarded to the Commission for adoption in line with the procedures laid down in Articles 6 and 7.

9. The Commission shall maintain separate registers of all applications received, all applications approved and all applications rejected. Those showing the received and rejected applications shall be accessible only to the competent bodies of Member States.

10. A manufacturer or importer who intends to withdraw an application for the award of a label or to cease to use a label shall notify the appropriate competent body.

*Article 11***Costs and fees**

1. Every application for the award of a label shall be subject to the payment of the costs of processing the application.

2. The conditions governing the use of the label shall include payment of a fee by the applicant for the use of the label.

3. The sums referred to in paragraphs 1 and 2 shall be fixed by the competent bodies referred to in Article 9 and may vary from Member State to Member State. Indicative guidelines for this purpose shall be established in accordance with the procedure laid down in Article 7.

*Article 12***Terms of use**

1. The competent body shall conclude a contract, covering the terms of use of the label, with each applicant. To

11. 4. 92

Official Journal of the European Communities

No L 99/5

this end a standard contract shall be adopted in accordance with the procedure laid down in Article 7.

2. The terms of use shall also include provisions for withdrawing the authorization to use the label.

Article 13

Confidentiality

Competent bodies, the Commission and all other persons concerned may not disclose to third parties information to which they have gained access in the course of assessing a product with a view to the award of the label.

Once a decision has been taken to award the label, however, the following information may not in any circumstances be kept confidential:

- the name of the product,
- the manufacturer or importer of the product,
- the reasons and relevant information for awarding the label.

Article 14

Publication

The Commission shall publish in the *Official Journal of the European Communities*:

- (a) the product groups, the relevant specific ecological criteria and their respective periods of validity;
- (b) a list of products for which an eco-label has been awarded, the names of the relevant manufacturers or importers and the expiration dates of the labels. Such publication shall take place at least once a year.
- (c) the names and addresses of the competent bodies.

The Commission shall also publish from time to time for the information of consumers and undertakings a consolidated list of the products for which an eco-label has been awarded.

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

Done at Brussels, 23 March 1992.

Article 15

Information

Each Member State shall ensure that consumers and undertakings are informed by appropriate means of the following:

- (a) the objectives of the eco-label award scheme;
- (b) the product groups which have been selected;
- (c) the ecological criteria for each product group;
- (d) the procedures to be followed for applying for a label;
- (e) the competent body or bodies in the Member State.

Article 16

Advertising

1. References to the eco-label in advertising may not be made until a label has been awarded and then only in relation to the specific product for which it was awarded.

2. Any false or misleading advertising or the use of any label or logo which leads to confusion with the Community eco-label introduced by this Regulation is hereby prohibited.

Article 17

Implementation

Member States shall within six months of the entry into force of this Regulation inform the Commission of measures taken to ensure compliance with this Regulation.

Article 18

Review

1. Within five years of the entry into force of this Regulation the Commission shall review the scheme in the light of the experience gained during its operation.

2. The Commission shall propose any appropriate amendments to this Regulation.

For the Council
The President
Carlos BORREGO

ANNEX I

INDICATIVE ASSESSMENT MATRIX

Environmental fields	Product life-cycle				
	Pre-production	Production	Distribution (including packaging)	Utilization	Disposal
Waste relevance					
Soil pollution and degradation					
Water contamination					
Air contamination					
Noise					
Consumption of energy					
Consumption of natural resources					
Effects on eco-systems					

11. 4. 92

Official Journal of the European Communities

No L 99/7

ANNEX II

LOGO



The logo shall be printed either:

- in two colours (Pantone 347 green and Pantone 279 blue), or
- in black on white, or
- in white on black.

June 18, 1993

**CONCERNS OF THE U.S. PULP AND PAPER INDUSTRY REGARDING THE
EC AD HOC WORKING GROUP'S PROPOSED CRITERIA FOR AWARD OF AN
EC ECO-LABEL TO CERTAIN PAPER PRODUCTS**

Executive Summary

The U.S. paper industry is very concerned about the proposal by the Danish-led Ad Hoc Working Group on criteria for awarding an EC eco-label for toilet paper, kitchen towels, copying paper and writing paper. We believe that the arbitrariness, subjectivity and rigidity of the proposed criteria could lead to trade restrictions against U.S. paper products or U.S. market pulp used in the production of European paper products. The U.S. paper industry is especially concerned that the treatment of certain so-called "concern factors", which are used as weighting factors for various parameters in the criteria, could pose a direct (trade) barrier to U.S. paper producers who would wish to participate in the EC eco-label program or to U.S. exporters of "market" pulp to European customers who may wish to seek the award label for their paper products. Particularly troubling, in this regard, is the treatment of the solid waste and renewable resources parameters (clearly tilted unjustifiably in favor of recycled content products) and of the chlorinated organics parameter (expressed in terms of "AOX").

Our industry's concerns pertain to:

- The apparent intention of the EC Commission to limit eligibility for the EC eco-label award to some 10-20% of the producers in the market, regardless of how many producers can meet the criteria for their product(s). Such limitation would fly in the face of the stated objective of the program to encourage production of 'environmentally friendly' products. Also, the arbitrary limitation could be used to discriminate against foreign suppliers.
- The criteria themselves, which we believe are unjustifiably rigid and biased, and which would pose a serious barrier to U.S. sales in the EC market. In addition, the criteria are vague and subject to various interpretations, and do not take into consideration local conditions or different – but at least as rigorous – regulatory requirements in non-EC countries;
- The methodology employed in the criteria. In our judgment, the methodology is scientifically questionable, but even more importantly, it is being subjectively applied, without consistency and logic;

- 2 -

- The substantially greater difficulty which U.S. suppliers of paper products will face, as compared to EC producers, in demonstrating their products' eligibility for the eco-label, even if load point thresholds for a given product are met. Likewise, U.S. market pulp suppliers will face significantly greater burdens in serving European paper producing customers who wish to apply for the label than will their European market pulp competitors.) The disproportionate burden of proof on U.S. producers would constitute a significant barrier to U.S. pulp and paper suppliers seeking to compete in the European Community market.

Regarding the criteria which have been proposed, our particular concerns are as follows:

1. The basic methodology used by the Ad Hoc Working Group is that of an eco-profile or eco-balance, which is arrived at through the calculation and weighting of so-called "load points". The objective is to determine whether particular resources are conserved and environmental objectives are furthered by particular production processes. Subjectivity is intrinsically inevitable in the valuation phase of such procedures, as for example in the identification and weighting of various "concern factors" used in measuring environmental impacts. Entirely missing from the draft criteria for paper products is any credible justification or rationale for the many value judgements in the proposal. For example, in the EC proposal, fewer load points are awarded based in part on decreasing emissions per ton of product. This is done, however, without regard to whether or not there is any accompanying health or environmental benefit.

In a number of areas, the U.S. paper industry has serious reservations about the arbitrary and unsupported approach taken in determining the weighting of "concern factors" and the determination of hurdles and load points. For example, three particularly troubling criteria pertain to the solid waste, renewable resources and chlorinated organics parameters. The criteria for all four paper products currently proposed for coverage under the eco-label program are heavily tilted in favor of recycled paper products and, therefore, against paper products and pulp made of virgin wood fiber. (U.S. paper industry exports to Europe are primarily virgin fiber based.) We believe that the assumptions underlying this bias are, in many cases, indefensible, and that this bias poses a serious trade barrier to many U.S. paper producers who would wish to participate in the EC eco-label program, and to U.S. exporters of "market" pulp to the Community whose European customers may wish to seek the award label.

The lack of scientific rationale in the criteria is particularly troubling regarding the chlorinated organics parameter listed in the criteria (i.e., AOX). While AOX is not a valid environmental parameter, an AOX limit potentially could, under certain circumstances, provide a surrogate measure of performance. However, a scientifically unjustifiable limit could serve as an insurmountable trade barrier to U.S. pulp and paper producers.

- 3 -

2. The criteria are vague and open to various interpretations. For example, the guidelines for pulp content require that virgin wood pulp be sourced from "regions" applying "sustainable forest management" techniques. Many of the terms included in the definition of sustainable forest management are unclear and could be subject to different interpretations. Likewise, the draft does not adequately define the standards that will be used to evaluate management practices in foreign forests, which demonstrations of actual practice would be required, or who will certify acceptable practices. Subjective assessments made about forest management practices or the many other guidelines in the proposal could be used to disqualify producers. Countering such assessments would be extremely difficult, if not impossible. Overall, we seriously question whether the proposal meets the requirement of the EC Council Regulation (EEC No. 880/92) which established the "Community eco-label award scheme", namely, that the specific ecological criteria for each product group "must be precise, clear and objective so as to ensure uniformity of application by the competent bodies." [Article 5(4.)]

3. The rigid application of the criteria regarding eligibility of imported products under the eco-label program is unjustifiable and poses a potentially serious barrier to trade. On the one hand, the proposal states that the "setting of the criteria is based on *environmental effects*, e.g. global warming or acidification." While these may be global issues, practical actions must take place in the context of local conditions (which includes conditions within municipalities, states/provinces and/or individual countries). Therefore, industry initiatives and government regulations/laws in different areas of the world will address global environmental issues in different ways. Indeed, U.S. environmental regulations differ from European regulations in numerous ways, even where U.S. and European countries are working on the same concerns. (One basis for the differences lies in the fact that many EC regulatory requirements arose much more recently than in many U.S. jurisdictions, resulting in different technological and regulatory requirements, but with comparable environmental results.) The proposed criteria for paper products take the position, however, that EC regulations are the only ones that can produce desired results.

The criteria require that "all steps of the production process, including the use of chemicals and emissions to any environmental field, must be in conformity with Community health, safety and environmental requirements....Products or semi-products imported to the Community, for which the award of an eco-label...has been requested, must at least meet the same strict criteria as products manufactured in the Community." Additionally, "If the requirements of national or regional legislation are stricter, the national or regional legislation must be followed." (Presumably, this refers to government requirements in EC member states.)¹ There is no reasonable justification for

¹The quotes above are taken from the March 1993 draft criteria for kitchen towels and toilet paper; they are virtually identical to the language in the proposed criteria for copying and writing papers.

- 4 -

requiring that foreign producers must comply with EC emission and other process-related environmental regulations. The Ad Hoc Committee's proposal ignores the basic fact that foreign producers must meet the regulatory and statutory requirements of the authorities where they operate. U.S. exporters of any of the paper products which are covered by the eco-label program could be disqualified from eligibility for the label simply because U.S. government requirements differ from EC regulations. In the same way, U.S. market pulp producers could lose sales to European papermakers who are seeking the eco-label.

For U.S. producers, the criterion should be that they meet U.S. environmental regulatory and statutory requirements, which are extremely stringent.

4. U.S. exporters of any of the paper products covered by the EC eco-label program will bear a considerably heavier burden in demonstrating their eligibility than will EC producers. This is the case for several reasons:

(a) U.S. producers of eligible paper products or of market pulp for use in European paper products can be expected to have to deal with many more "competent bodies" in Europe (providing information on load points, U.S. regulations, etc.) than will EC producers since, in most cases, European paper producers will apply for the label primarily in their own country of production (which will also be their primary market). Each of these competent bodies will be making numerous subjective decisions about products, production methods, emissions, and so on. While European producers will face many of the same difficulties that U.S. producers face in terms of demonstrating that their products meet the hurdles and load points in the criteria, they will have the considerable advantage of geographic closeness to the agencies making the label decisions.

(b) In this context, we raise the question as to whether or not the EC will recognize U.S. tests, inspections and/or certifications in support of EC eco-label applications by U.S. producers or their European customers. If testing of products and verification of production processes and environmental impacts will have to be performed in the EC, U.S. producers will be effectively shut out of the eco-label program. The fact that the eco-label program is voluntary in no way lessens its potentially trade-distorting impact, since the eco-label creates a marketplace advantage for awarded products.

(c) For U.S. market pulp producers, the difficulty is compounded by the fact that, in many cases, U.S. market pulp sales to Europe and other foreign countries are made through brokers to a variety of customers in different countries, making different paper products. Brokers, working with several U.S. market pulp suppliers and many European customers, will have to respond to a multitude of requests for data on their pulp suppliers' operations from European papermakers seeking the label for their products. If EC paper manufacturers perceive that it is more difficult for them to get the information they need about the pulp production processes (regarding load points/hurdles etc.) from brokers handling foreign pulp (or from non-European producers themselves) than it is from European producers, the EC paper producers can

— What are the competing products

answer is positive label

- 5 -

be expected to purchase pulp predominantly from European pulp producers with whom they deal directly.

For this reason, the U.S. pulp and paper industry believes that -- as one possible approach to ensure a level playing field that the EC market remains accessible to U.S. market pulp producers -- a process might be developed whereby market pulp producers (independent of location) could, for example, certify the load points and hurdles set out in the criteria, so that this information could be available to brokers, European customers and competent bodies, as needed. While we have not yet fully evaluated all of the ramifications of how such a certification process might work, we believe that this issue needs attention and some mechanism needs to be instituted in order to ensure that the EC market remains open to U.S. market pulp producers.

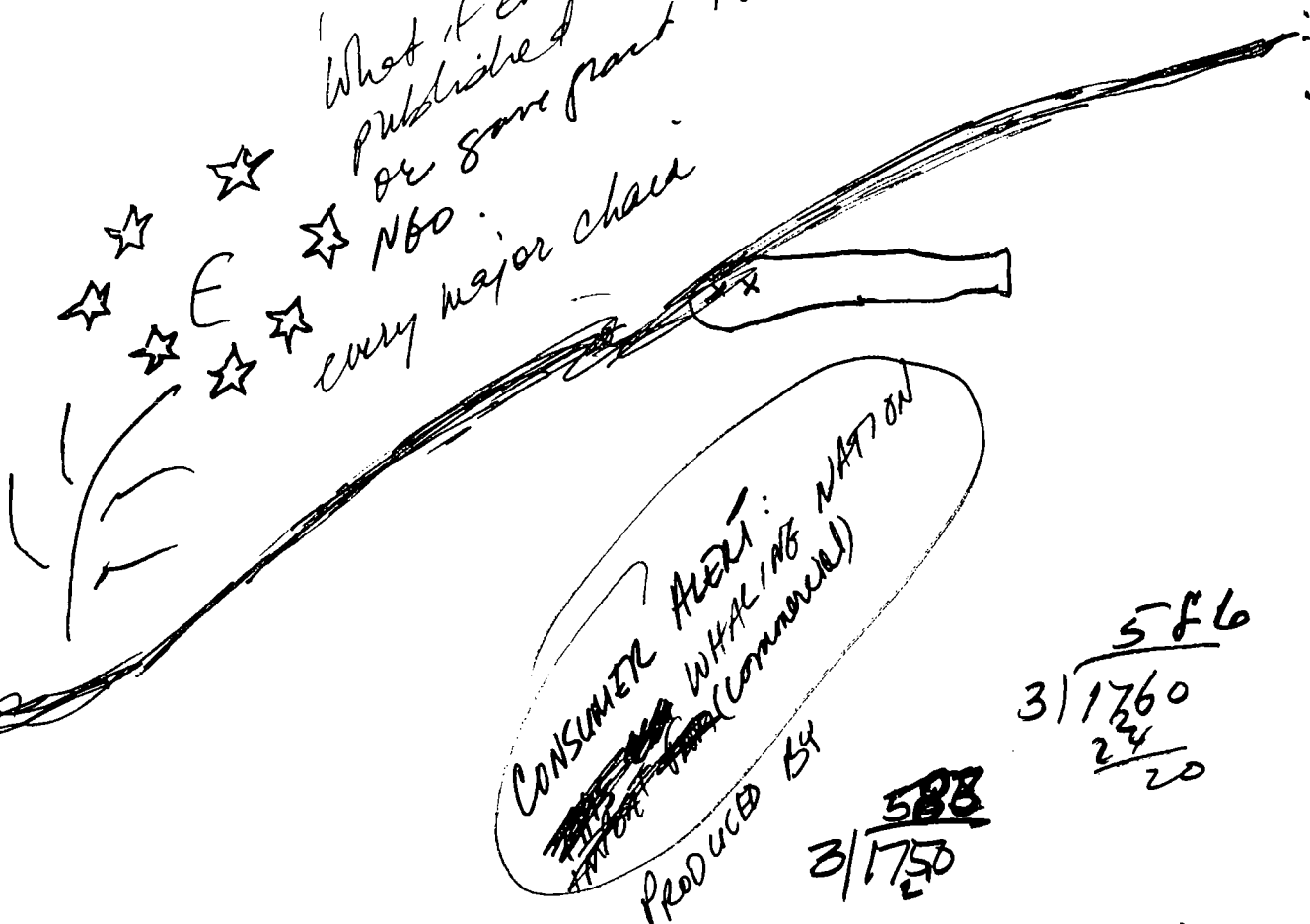
Conclusions

As currently designed, the proposed EC eco-label program and criteria for various paper products raise serious concerns, because of the arbitrariness, subjectivity and rigidity of the criteria which could lead to discrimination against foreign paper products or foreign pulp. Decisions of the eco-label jury are likely to be extremely difficult to challenge from 3,000 miles away. If the EC program does not recognize non-EC companies' compliance with their own national regulatory requirements as satisfying the EC label criteria, U.S. producers could be excluded altogether from the eco-label program.

While our concern is expressed specifically in terms of the proposed criteria for the four paper products already designated as eligible for the award (and market pulp which will also be affected), we are aware that an Italian-led committee is at work deciding whether or not paper packaging should be eligible for the eco-label, in its own right. If the determination is made that it should be eligible, specific criteria will be elaborated. There is no reason to believe that a different approach would be used for that sector than the one proposed for the first four products. The potential threat to U.S. exports of packaging materials -- and to U.S. exports of goods packaged in U.S. materials -- from a subjective potentially discriminatory approach to eco-labeling would be devastating to the U.S. paper industry.

The American Forest and Paper Association urgently requests the U.S. Department of Commerce to raise the U.S. paper industry's concerns with the EC Commission. If further information is needed about any of the issues raised in this letter, please don't hesitate to contact us.

What if EPA published or gave part to NBO.
every major chain



CONSUMER ALERT:
~~WHAT IF NATION~~
(commercial)

PRODUCED BY

3/1750 588

3/1760 586
24
20

legal probs
Govt grant → NBO
NBO raise \$
env't alerts —
• What countries are in compliance.

REPORTED

have all the non-whole membership label (value) non-whole. But who knows who's on W. nation + the int.

→ NBOs can spend \$/on edu. / advert effort to inform public about label.