Good Practice Guidance

DISCLAIMER

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INTRODUCTION

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- Ireland - National Standards Authority of Ireland (NSAI).
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- Malta - Malta Competition and Consumer Affairs Authority (MCCAA).
- Norway - Ecolabelling Norway.
- Romania - Ministry of Environment and Climate Change (MoECC).

The most efficient and effective way for Competent Bodies to fulfil the requirements of the EU Ecolabel Regulation is through following good practice.

Good practice is all about being proactive, successfully coordinating activities and learning from experience so that a body of knowledge and expertise is built up and becomes available across the Competent Body organisation and to applicants and potential applicants.

The challenge for Competent Bodies and the European Commission is to then share this knowledge and experience.

This guidance document is a response to that challenge and is based on an analysis of the practices in eight EEA Member States. The guidance is presented in sections which mirror the six elements of the EU Ecolabel Regulation:

- Organisation.
- Impartiality and Independence.
- Assessment and Award.
- Market Surveillance and Control.
- Promotion of the EU Ecolabel.
- Penalties.

Each section identifies the requirement in terms of the relevant part of the Regulation and summarises some of the "good practices" found.

Statements of “good practice” then follow and are supported with explanations about how they can be implemented. Some useful templates are also included at the end of this guide.

COMPETENT BODY ORGANISATION

02

Article 4 - Competent Bodies

4.1 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.

4.2 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.

There are many types of Competent Body, from private organisations to government ministries and agencies or a mix of both. In some Member States a specific committee or organisation is created. In others, an organisation which is already acting as the certification body for another ecolabelling scheme is an obvious candidate, because of the benefits and cost savings arising from economies of scale (such as knowledge transfer etc.)

Once the powers and responsibilities of the Competent Body are set out, it can start building and maintaining mutually beneficial relationships with other stakeholders. In particular, it can begin effective, joined-up working with other departments of government: other policy instruments or initiatives can help to drive the uptake of the EU Ecolabel and, equally, the EU Ecolabel scheme can support the implementation of these other policies and initiatives.

To carry out its responsibilities effectively, a Competent Body needs to be adequately funded. The level of fee income from licence holders is unlikely to cover the real cost of managing the EU Ecolabel scheme, partly because the fee maxima have been set at a level to encourage applicants but also because some costs are fixed and do not vary with the number of licences held. The shortfall could be made up from cross-subsidies from other fee-earning activities or from government support. Where government funds are being used, regular external reporting will help to ensure accountability - see overleaf for examples of the performance measures that could be used.

The scheme can be made more successful through encouraging wide stakeholder engagement. This is also an opportunity to:

- ensure that a wide range of perspectives are obtained on relevant issues, including matters arising from the development of new - or the revision of existing - criteria and
- leverage the experience and expertise of other parties.

The stakeholders involved can potentially also become ‘ambassadors’ for the EU Ecolabel within their organisations.

COMPETENT BODY ORGANISATION

GOOD PRACTICE

Clearly establish the powers of the Competent Body .

This could be via legislation, a ministerial decision/decree, a public exchange of letters or an open competitive tendering process.

The legislation, decree, tender or exchanged documents should set out the powers of the Competent Body(ies) and stipulate performance measures e.g. how long an assessment can take.

Close links can be established with sustainable or Green Public Procurement (GPP) policy initiatives. This could include:

- Representation on appropriate implementation committees/working groups.
- Provision of information regarding EU Ecolabel products.
- Providing input to public procurement guidance manuals.
- Presenting at seminars and workshops.

Links with the management and implementation of the Ecodesign Directive and EMAS policy instruments should also be established.

Adequately fund the Competent Body to carry out its responsibilities.

An annual budget should be agreed between the Government and the Competent Body which takes into account the responsibilities set out above and all funding sources.

In some Member States, application and annual licence fees are earmarked for promotional activities.

Establish a means to consult with interested stakeholders.

The mechanism could be established as follows, in order of cost:

- A standing board or committee (high cost).
- A group formed an ad-hoc basis to consider specific issues.
- A specific circulation list to which relevant documents or discussion points are circulated for comment (low cost).

A wide range of stakeholders can be encouraged to participate including:

- Other departments of government.
- Industry.
- Commerce.
- Retailers.
- Labour unions.
- Environmental and consumer NGOs.

Publicly report on the Competent Body's performance.

Reporting can include some or all of the following performance measures:

- Numbers of licences awarded and trade names.
- Numbers of licence applications received.
- progress on marketing and promotional activities.
- Level of stakeholder engagement e.g. meetings held, emails circulated, comments received.
- Time taken to process applications.
- Numbers of licences withdrawn/suspended.

In some member states the level of consumer awareness and understanding of the EU Ecolabel is measured via a consumer panel or surveys, although this may be costly to undertake on a regular basis.

IMPARTIALITY & INDEPENDENCE

03

Article 4 - Competent Bodies

4.2 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.

4.3 Member States shall ensure that competent bodies meet the requirements laid down in Annex V (see Appendix on page 18).

To maintain the credibility of the scheme and the confidence of consumers and applicants, the Competent Body must be, and be seen to be, impartial and independent.

Appropriate policies regarding 'conflict of interest', a clear organisational structure, separate allocation of responsibilities, and the contractual terms of staff and sub-contractors are vital here. Where assessment staff are public servants, their employment contracts would usually comply with these requirements. Where the Competent Body is a semi-public or private organisation, there should be appropriate policies in place and clauses in contracts of employment.

In all types of organisations effective monitoring systems should be in place too. An example of a management report is shown on page 19.

For those Competent Bodies which also manage other activities, some of which are of a commercial nature and related to the same industry sector as applicants, it can be more challenging to demonstrate clear impartiality and independence. Accreditation against relevant international standards which include strict impartiality and independence requirements and are also subject to regular third party audit is one way to demonstate impartiality and independence. Either that, or the associated commercial activities should be kept entirely separate either by internally restructuring the organisation or by creating a legally separate subsidiary.

It is also vital to maintain the confidentiality of information provided by applicants and their suppliers, as it is often commercially sensitive. Physical security is as important as IT security.

An example of a conflict of interest policy is shown on page 20.

IMPARTIALITY & INDEPENDENCE

GOOD PRACTICE

Develop a "conflict of interest" policy that covers the conduct expected of members of any committee, directly employed staff and any sub-contractors.	The policy should cover potential and actual conflicts of interest and how these would be dealt with, within the Competent Body. The policy should also require that staff, sub-contractors as well as any members of consultative boards or committees etc. declare any professional or personal interest in any company applying for the EU Ecolabel and subject to assessment and/or inspection. The policy should be publicised.
Develop a data handling and storage policy that covers all information received.	Importantly, the policy concerning the handling and storage of data should make a distinction between any data from suppliers which should not be divulged to applicants and vice versa, particularly if non-disclosure agreements (NDAs) are signed. Folders held on the computer system should identify if they hold such information.
Nominate a member of staff who has responsibility for dealing with any conflicts of interest.	A person not involved in the assessment process should be given the responsibility for ensuring the proper implementation of the policy (ies) referred to above and be the focal point for employed staff and sub-contractors to ask for advice and report issues. Any issues reported, should be reviewed and if necessary lead to an updated to policies, procedures etc.
Separate EU Ecolabel award and assessment activities from commercial activities where these may give rise to a perceived or actual conflict of interest.	Organisational separation can be achieved by creation of a subsidiary or via accreditation to EN 45011:2008 or ISO 17021:2011 which requires separate management reporting arrangements, an impartiality committee and annual external audits.

ASSESSMENT & AWARD

04

Article 4 - Competent Bodies

4.4. CBs 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 operaing product-certification schemes..

Article 9 - Award of the EU Ecolabel and terms and conditions of its use.

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

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

9.5.3 Operators shall meet the costs of testing and assessment of conformity with EU Ecolabel criteria..... 9.6 Where EU Ecolabel criteria require production facilities to meet certain requirements, they shall be met in all facilities in which the product bearing the EU Ecolabel is manufactured. Where appropriate, the CB shall undertake on-site verifications or assign an authorised agent for that purpose.

An assessment process based on a written set of procedures not only helps applicants but the Competent Body too by:

- ensuring the reproducibility of the assessment process;
- enabling the efficient induction of new staff and
- demonstrating a consistently fair assessment process.

The starting point for an efficient assessment process is the provision of early and comprehensive information to potential applicants. Describing the assessment process in detail, including providing checklists and guidance, helps resolve issues and ensure that applicants interpret the criteria requirements correctly. See an example of application instructions in relation to a product formulation on page 21.

An early meeting could also help here. Any queries can be answered, respective responsibilities agreed together with a timeline so that both parties can allocate the necessary time and resources.
Once the application has been received, assessment should be conditional on payment of the application fee. This has several benefits:

- There is a greater incentive for an applicant to pay at this stage.
- It shows that the Competent Body has no financial incentive in a successful outcome.

For each assessment a written record should be kept. Keeping a full audit trail of the process is particularly useful if there is a subsequent change in assessor and a handover has to be organised but also if an appeal or complaint is lodged and has to be investigated.

Following a desktop assessment an inspection of the production site(s) is an important opportunity to check that the documentation supplied reflects what actually happens in practice. However where applications are received from outside the EEA, it can be difficult to identify appropriate in-country expert inspectors. CBs would therefore benefit from using a centrally managed pre-approved list.

At the end of the process, a final review of the assessment record by another assessor provides a degree of quality assurance. It also has the benefit of increasing the experience and expertise of individual assessors.

ASSESSMENT & AWARD

GOOD PRACTICE

Produce a comprehensive set of written assessment and award procedures which all staff follow.	Obtaining certification to ISO9001:2008 or EN45011:1998 or ISO17021:2011 is one way to achieve this as these standards require written policies and procedures to be prepared and followed by all staff. The policies and processes for keeping the written procedures up to date should be regularly updated.
Develop guidance on the application process including an application form.	The availability of a tailored application form, guidance notes and checklists in the local language should help applicants better navigate the application process. The content could include: • Timescales for the assessment process. • Fees chargeable at application, for inspections and annually and in respect of any extensions or variations. • Examples of the documents to be provided. • The location of relevant laboratories to undertake testing. • An overview of the process of subsequent control of the use of the EU Ecolabel once a successful award has been made. • How changes in product formulation, manufacturing site etc. should be reported. The guidance should be made available on the web site of the Competent Body.
Electronic applications should be accepted.	To facilitate this, a zipped file prepopulated with a folder structure could be provided. Cloud storage options e.g. 'Dropbox' or 'OneDrive' should be considered if the files are too large to be emailed; however data security implications should be investigated first.
Request a control plan as part of the application dossier.	The completed control plan should indicate by each criterion, the level of risk and how the applicant intends to mitigate and manage that risk. The Competent Body should then plan their response i.e. a visit, a check of production control sheers, sampling, label checks etc. The Competent Body response should reflect the complexity of the criterion requirement, the geographical dispersion of suppliers and/or the type of ingredients used.

GOOD PRACTICE

Invoice the application fee and ensure it is paid before assessment commences.	Proof of payment of the application fee can be provided at the same time as the completed application form.
Hold a meeting with each applicant before assessment starts.	The agenda for this meeting should cover: • An introduction to the EU Ecolabel and the relevant criteria requirements. • Preparation of a plan for the delivery of supporting documentation, test reports etc. to the Competent Body and a commitment by the Competent Body to provide feedback within a specified period. • How the documentation should be filed for submission - in particular that all documentation should be submitted together. • After the meeting the assessor should send a copy of the agreed delivery schedule. • The applicant is asked to confirm that the plan is in line with what was agreed during the meeting. The assessor then sets aside time in their calendar to process the application in accordance with the agreed plan. The meeting could also be used as an opportunity to discuss how the applicant intends to communicate the benefits of being awarded the EU Ecolabel and how the Competent Body can help them achieve this.
Prepare instructions and checklists for each product group.	The instructions for completing the application form and checklist should be specific to the product group but must include the following: • ECAT registration number. • Statement of whether the application is in respect of a new licence, renewal, variation or extension of an existing licence (addition of another product). • Brief description of the product. • Production site(s). • Contact details. The instructions and checklists should be made available to potential applicants. For example via the website. See example application instructions that refer to a product formulation on page 21.
A list of FAQs, in addition to that held centrally by the EU Ecolabel Help Desk should be created and kept up to date.	This document may be internal (for assessors only) or may be published. The document should be 'live' i.e. updated after each assessment. The FAQs can also be used to update the application checklists and other tailored guidance (see above).

GOOD PRACTICE

Screen all applications for completeness before assessment starts.	This could be undertaken by administrative staff to ensure that more expensive and experienced technical staff do not spend time on applications that cannot progress further. The screening should include some or all of the following checks: • Is the product in scope (although this may require some expert advice)? • Are all contact names and details included? • Is the country of origin and place of manufacture stated? • Are all relevant safety data sheets included? • Is there supporting evidence in respect of any fee discounts included e.g. EMAS or ISO 14001 certificate and environment policy? • Are sample labels included?
Keep an assessment log that records the results of the assessment, the issues raised and how they were resolved.	The assessment log can be a simple document with one column comprising the criteria (copied and pasted from the Commission Decision) and another column against this recording any issues arising, how resolved and any conversations held or correspondence entered into. Hyperlinks to other documentation can also be included.
Follow the guidelines of the Competent Body Forum on the interpretation of criteria.	A list of frequently asked questions (FAQs) regarding the interpretation of criteria are kept on Circa and regularly updated by the Competent Body Forum. In 2009, the Competent Body Forum also issued guidelines on the sequence of steps that should be followed if ISO17025 accredited laboratories were not available to the applicant. These are reproduced on page 22 of this guidance.
Record all substances/mixtures assessed on a central database (spreadsheet).	All substances/mixtures that have been included in previous applications should be recorded. The specific safety data sheet (SDS) submitted and any brand names should also be noted as well as the result of the assessment. By keeping this information on a central database or spreadsheet it is then available to all assessment staff for use in future assessments and will help to save time in the assessment process as well as ensuring a consistent approach is maintained.

ASSESSMENT & AWARD

GOOD PRACTICE

Undertake an inspection of each site where production takes place or where the service is provided.	The following checks should be carried out: • the ingredients being used are the same as those declared in the application form (and used in the same quantities); • that control and management systems are in place; • that production and management staff understand the requirements of the EU Ecolabel scheme for the specific product group. The charge for such an inspection should be agreed with the applicant prior to assessment commencing.
Select auditors for inspections outside the EEA from a centrally held, pre-approved list.	The development of such a list will avoid duplication of effort by CBs where, for example, separate textile producers in one country apply to different CBs . It will also encourgae the development of expertise and understanding of the EU Ecolabel in that country and in specific product groups.
Record all time spent undertaking an assessment including the inspection against each application.	Each application can be allocated a unique project number and time recorded via a manual or electronic timesheet system against these project numbers. Cumulative information by specific application, product group etc. can then be produced and analysed to highlight problems with particular applications or product groups.
Quality review all assessments before an award is made.	Each assessment log (see above) should be reviewed by another assessor (the reviewer), together with the supporting documents. Particular importance should be attached to any technical issues that arose during the assessment. The log is then 'signed off' by the reviewer. As well as ensuring accuracy this also has the benefit of increasing the experience and expertise of the assessors undertaking the review.
Provide an opportunity for all staff involved in the EU Ecolabel to influence the CB Forum agenda via the CB representative and be debriefed on the results of CB Forum meetings.	Via email or by physically holding meetings involving all assessment staff in the Competent Body. It is important that issues can be escalated as appropriate, as what may seem to be minor issues in one member state may be important in aggregate.

MARKET SURVEILLANCE & CONTROL

05

Article 10 - Market Surveillance & control of the use of the EU Ecolabel

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

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

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

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

Every licence holder should be subject to some control activity during the validity period of their EU Ecolabel licence, to check that they remain compliant. This is particularly important for those product groups which have complex criteria or long supply chains that are geographically dispersed. In these cases, the risks of non-compliance are often greater.

However, as well as taking into account the risks of non-compliance, the amount of control activity depends on the available resources and the national approach to the monitoring of all product labelling. There are a number of different possible approaches from website checking to testing of sample products. As well as a reliance on other statutory bodies.

It is particularly important to be vigilant against the misuse of the EU Ecolabel logo. This appears to be the main problem experienced by Member States. Market surveillance and control will help here and complement the day to day monitoring that competitors in the market undertake.

An example of a control visit agenda is shown on page 23 of this guide and an example of a procedure to deal with logo misuse is shown on page 24.

MARKET SURVEILLANCE & CONTROL

GOOD PRACTICE

Produce an annual market surveillance plan.

The annual market surveillance plan should be based on the risk of non-compliance. The risks may be based on:

- Previous experience of the Competent Body i.e. during the asessment process.
- The results of control plan activities (see below).
- Complaints.

Surveillance Activities could include:

- Purchasing products and checking labels.
- Checking marketing material including website(s), particularly when licences have expired.
- Emailing a declaration of compliance form for each licence holder to complete.

Follow up activities may also include on-site inspections.

The results of the market surveillance and control activity should be used to update assessment checklists and FAQs.

Agree a "control" plan with the licence holder.

This should be agreed before award of the EU Ecolabel licence and then periodically reviewed. It should take into account:

- The previous experience of the Competent Body with similar licences.
- Matters of concern identified during the assessment process (i.e. inaccuracies in evidence submitted).
- The results of previous inspections (i.e. major/minor issues of non-compliance).

It should include:

- Frequency of control visits (if applicable).
- Testing requirements.
- Costs involved.

The resulting control activity could be any one of, or a combination of the following:

- Visit.
- Product test.
- Desktop scrutiny of production control sheets.

The results of the control activities should also be recorded and can inform the process of developing an annual market surveillance plan (see above) as well as the application guidance referred to above.

Develop a complaints policy and make it accessible.

The policy should be publicised on the website and clearly set out:

- The definition of a complaint.
- Details of who to contact at the CB.
- How the complaint will be managed and investigated including timescales
- How the complainant will be communicated with.

PROMOTING THE EU ECOLABEL

06

Article 12 - Promotion of the EU Ecolabel.

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

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

(b) encouraging the uptake of the scheme, especially for SMEs, thus supporting the development of the scheme.

The extent to which EU Ecolabel Competent Bodies are able to promote the EU Ecolabel scheme will depend on the importance of the scheme in the national policy mix, the financial resources available and the level of interest in the scheme. If communications professionals can be employed - or shared with national ecolabelling schemes where these also exist - it would be possible to create sophisticated promotional campaigns based on consumer research and effective partnership working, using the leverage of other organisations, particularly intermediaries with influence on the target audiences. See the case study on page 25 of this guide for an example of one country's approach.

As a minimum though, the EU Ecolabel can be promoted through attending relevant trade fairs and exhibitions, using marketing collateral based on designs developed by the Commission and exploiting the link with Green Public Procurement (GPP).

The creation of clubs for users of ecolabelled products to network and the organisation of meetings of licence holders can also be considered, although it is important to bear in mind the associated costs.

PROMOTING THE EU ECOLABEL

GOOD PRACTICE

Develop a marketing strategy.	The strategy could be based on: • consumer focused, research i.e. which consumers are most interested and willing to buy EU Ecolabel products, • targeted communications i.e. what channels should be used to reach these consumers and • the use of intermediaries i.e. can we work with other institutions/organisations that our target consumers trust.
Start a membership club for purchasers and users of EU Ecolabel products.	Membership benefits could include: • The opportunity to attend networking events. • The use of a special logo to signify usage of products awarded the EU Ecolabel. The club could also offer EU Ecolabel licence holders the opportunity to 'showcase' their products and services.
Create opportunities for licence holders to meet.	The meeting could be organised by product group if there is sufficient interest e.g. tourist accommodation licence holders. Suppliers of products awarded the EU Ecolabel licence (e.g. all purpose cleaners, detergents, paints & varnishes, textiles, TVs, bed mattresses, etc.) could then be invited to advertise and sell their products to other licence holders.
Arrange seminars/training workshops for consultants, advisers, and potential applicants on how to go about applying for the EU Ecolabel.	Training events or workshops can take place when a new or revised set of EU Ecolabel criteria are agreed. A fee could also be charged to, at least cover costs, but also potentially to support the management of the scheme.

PENALTIES

07

Article 17 - Penalties.

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

Publishing a list of penalties acts as a deterrent, making it clear to all EU Ecolabel licence holders what the consequences of breaches of the conditions of their licence are. It also ensures that other operators are aware of the consequences of misusing the label or logo on their products or in their advertising.

Some countries incorporate a specific set of penalties relating to misuse of the EU Ecolabel in statute. This enables other organisations (legal persons) to take legal action (e.g. consumer NGOs). This may be useful if the Competent Body is unable to do so itself i.e it is not constituted as a legal person.

Some countries instead rely on existing legislation which protects consumers from misleading advertising and prevents unfair trade practices.

PENALTIES

GOOD PRACTICE

A specific list of penalties should be produced and publicised.

The penalties should be set out in statute.

The penalties could cover the following specific issues:

- Using the EU Ecolabel without having obtained permission or using the EU Ecolabel inappropriately (e.g. on a different product from that for which an EU Ecolabel licence was obtained).
- Using the EU Ecolabel to make false marketing claims about a product.
- Using a label similar in design to the EU Ecolabel that would confuse consumers.

GLOSSARY

EU Ecolabel Regulation

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). This governs the operation and management of the EU Ecolabel scheme in each member state. The full text is at: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32010R0066:EN:NOT

Green Public Procurement

Green Public Procurement (GPP) is a process whereby public authorities seek to procure goods, services and works with a reduced environmental impact throughout their life cycle when compared to goods, services and works with the same primary function that would otherwise be procured. GPP is a voluntary instrument, which means that member states and public authorities can determine the extent to which they implement it.

Competent body (CB)

Competent Bodies are independent and impartial organisations designated by states of the European Economic Area within government ministries or outside the ministries. They are responsible for implementing the EU Ecolabel scheme at the national level.

Competent body forum

A meeting of all Competent Bodies which is held three times per annum in Brussels to exchange experiences and ensure a consistent implementation of the scheme in different countries. It was set up in accordance with Article 13 of the 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).

Ecodesign directive

The Ecodesign Directive 2009/125/EC aims at reducing the environmental impact of products by establishing a framework for the setting of ecodesign requirements for energy-related products. Mandatory requirements for specific product groups are set out via implementing measures and voluntary agreements which are developed in consultation with all interested parties.

EMAS

The EU Eco-Management and Audit Scheme (EMAS) is a management instrument developed by the European Commission for companies and other organisations to evaluate, report, and improve their environmental performance. EMAS is open to every type of organisation eager to improve its environmental performance. It spans all economic and service sectors and is applicable worldwide.

ANNEX V OF THE EU ECOLABEL REGULATION

"REQUIREMENTS RELATING TO COMPETENT BODIES

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

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

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

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

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

4. A competent body shall be capable of carrying out all the conformity assessment tasks assigned to it by this Regulation, whether those tasks are carried out by the competent body itself or on its behalf and under its responsibility. At all times and for each conformity assessment procedure and each kind or category of products in relation to which it has been designated, a competent body shall have at its disposal the necessary:

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

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

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

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

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

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

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

6. The impartiality of the competent bodies, of their top level management shall be guaranteed. The remuneration of the top-level management and assessment personnel of a competent body shall not depend on the number of assessments carried out or on the results of those assessments.

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

EXAMPLE INTERNAL MONTHLY REPORTING

	Number applications received - awaiting assessment	Number of applications currently being assessed	Number of suspended applications (awaiting information)	Number of applications positively assessed	Number of applications negatively assessed
Total	**17**	**8**	**15**	**5**	**3**
Renewals	1	4	6	3	2
New Contracts	6	3	8	1	1
Extensions	10	1	1	1	0
Product/Service Category					
Copy & Graphic paper	0	0	1	0	0
Hard coverings	8	1	0	1	0
All purpose cleaners	6	1	1	3	1
Laundry detergents	2	1	0	0	0
Detergents for dishwashers	1	0	0	0	0
Hand dishwashing detergents	9	0	0	3	1
Wooden furniture	0	0	0	0	1
Textiles	5	0	1	1	0
Indoor paints	9	2	0	0	0
Soaps, shampoos and hair conditioners	5	2	0	1	0
Camp sites	5	1	2	1	0
Tourist accommodation	35	4	3	5	2
Growing media	0	0	0	0	0
Tissue paper	15	5	0	0	0

EXAMPLE CONFLICT OF INTEREST POLICY

Purpose:

The purpose of this policy is to provide guidance on handling possible conflicts of interest that may arise as a result of our role as the EU Ecolabel Competent Body. This policy:

- *defines what is meant by conflict of interest.*
- *describes how conflict of interest can occur in the context of working for the Competent Body and*
- *sets out responsibilities for managing conflict of interest when it occurs.*

Scope:

This policy applies to all staff and other individuals who are involved in the assessment and award of the EU Ecolabel. This includes the handling of application information, technical enquiries, assessment activities, inspections, market surveillance activities, award, criteria development and the preparation of advice on voting.

Definition of conflict of interest:

A conflict of interest is a situation in which an individual, or the organisation, has divergent interests or loyalties. Conflicts of interest can arise in a variety of circumstances in relation to CB awarding activity, for example:

- *where someone works for or carries out work on the Competent Body's behalf, but who may have personal interests in another business which is advising or applying for the award of the EU Ecolabel.*
- *when another part of the CB organisation is providing advisory or other services to a business which is applying for an EU Ecolabel licence such that we might be perceived as having a pecuniary interest.*

Responsibilities:

All individuals have a responsibility to be aware of the potential for a conflict of interest. Such situations must be carefully managed to ensure that any conflict of interest does not detrimentally impact on the reputation of the EU Ecolabel, the Competent Body and the Government.

Team Leaders and Staff Managers should:

- *regularly communicate this policy to all individuals within their teams.*
- *arrange refresher conflict of interest training for their team members and especially for new staff as part of the induction process.*
- *record all reported conflict of interest issues.*
- *try to resolve any conflict of interest issue or if not resolvable report it to the Responsible Officer*

The Responsible Officer is responsible for:

- *reporting and recording all actual or potential conflict of interest issues and their resoluton if applicable.*
- *deciding when and how matters relating to potential or actual conflicts of interest will be escalated within the organisation, including when they are reported to external stakeholders.*

Every individual within the Organisation should:

- *be familiar with this policy and any guidelines including taking part in training.*
- *disclose any activity if there is any doubt as to whether or not it represents a conflict of interest.*

EXAMPLE APPLICATION INSTRUCTIONS

In order to be granted an EU Ecolabel licence, you must comply with each of the published criteria set out in the relevant Commission Decision. The Competent Body examines all the submitted calculations, test results, declarations and documents and checks them against each criterion. It is the responsibility of the applicant to provide all the necessary documentation to satisfy the Competent Body of their compliance. In order to process your application as quickly as possible please follow these steps:

Register your application in ECat

ECat is the European Commission's online tool to manage EU Ecolabel applications. In order to process your application, you should always register your application in ECat_Admin first. You will find the instructions on the European webpage (http://ec.europa.eu/environment/ecolabel/ecolabelled_products/pdf/user_manual/Ecat_admin%20user%20manual%20for%20Applicants.pdf)'

Describe the application

Please provide a brief description, of your application in order for us to process it as quickly as possible. In particular, we need you to clarify the following:

- *The recipe trade name(s).*
- *If the recipe has already been approved for another product, please state this together with the approved trade name, recipe number and licence number.*
- *Change of recipe: Please state the changes in the formerly approved recipe, and remember to add the trade name(s), recipe number and licence number.*
- *If the same product is sold under various trade names, please list this information in a table.*
- *If the product or material has already been approved under another trade name, please state the other trade name.*
- *If several types of material or different sub-contractors are used, we ask you to state this in a table as well.*
- *If you need approval of a new material or sub-contractor, please state the materials or sub-contractors and provide supporting evidence of their compliance.*

List of documents for each requirement

As we need documentation showing that each requirement in the set of criteria is fulfilled, please describe briefly how each criterion is fulfilled, and state the filename containing the documentation for each requirement (C1, C2, etc.) If any documentation is not available and/or not submitted, please indicate this in the list together with your explanation of why no documentation is submitted or the date when it will be submitted.

Documentation

Please organise your documentation in the file structure shown at http://www.....During the processing of your application we might need further documentation. Should this be the case, it is very important that you submit any new documentation in accordance with the file structure set out in the above link.

Submit a completed and signed application

Once completed and signed, please submit the application to xxxx@xxxxxxx.aa together with the ECat reference number and all the necessary documentation organised in the file structure referred to above.

All applications

When you submit an application to us by e-mail, we kindly ask you to forward the names and e-mail addresses of the following contacts in your company.

- *The person responsible for compiling the EU Ecolabel application and to whom any technical questions should be addressed.*
- *The person responsible for marketing the EU Ecolabel product.*
- *The person responsible for payment of the application fee in your finance department.*

GUIDELINES FOR A PROCEDURE FOR CHECKING THE CRITERIA IN RESPECT OF APPLICATIONS: USE OF TEST LABORATORIES.

"In our criteria document, the Assessment and verification requirements, paragraph 3 says: "Where possible, the testing should be performed by laboratories that meet the general requirements of EN ISO 17025 or equivalent". There is a need for a common practice on how this shall be interpreted, and this document describes a hierarchy of situations and conditions for acceptance of a laboratory. The situation in paragraph 1 is preferred, if this is not possible, paragraph 2 comes into force, etc.

The national competent body or eco-labelling board will consider the applications individually taking into account the following approach and making a decision according to the concrete situation without prejudice to the credibility of the European eco-labelling scheme.

1) Laboratory tests shall be performed by laboratories that are accredited for the specified test method according to ISO 17025 or GLP, where possible. The Competent Bodies accept accredited laboratories in all Member States in the EU/EEA and in countries that have signed the mutual recognition agreement according to ILAC, the international accreditation organisation. If in the Member State where the applicant submits its dossier or where the company or the concerned production plant or service is based, one or more laboratories are accredited according to ISO 17025 or GLP, applicants shall use such a laboratory, either in that Member State or another.

2) Laboratories with an accreditation for other tests than those required by the criteria can be accepted if they submit a declaration that the tests are done following the same quality management procedures as the tests for which they obtained an accreditation. In case of doubt, the competent body or national board shall inspect the lab that carries out the tests or shall select an accredited auditor who will be charged to do so.

3) If, neither point 1 or 2 is possible, applicants should call on a non-accredited independent laboratory certified or approved by a Government Department or other public body in a Member State. In case of doubt, the competent body or national board shall inspect the lab that carries out the tests or shall select an accredited auditor who will be charged to do so.

4) If none of points 1 - 3 are possible, applicants may have the tests performed by an independent laboratory that is neither accredited nor approved by authorities according to point 3. Laboratories with a quality management system shall be preferred. A laboratory situated in an organisation holding an ISO 9001-certificate, may be accepted if the scope of the certification includes the laboratory. The competent body or national board shall verify the competence of the laboratory that carries out the tests or shall select an accredited auditor who will be charged to do so.

5) If none of the above mentioned points can be fulfilled, the applicant may have the tests carried out in a company laboratory (that is not accredited ISO 17025 or GLP, as this would be covered by point 1). The competent body or national board shall ensure that the tests are properly carried out or shall select an accredited auditor who will be charged to do so.

In this case, the laboratory shall have a quality management system. A laboratory within an organisation holding an ISO 9001- certificate, is accepted as being under appropriate quality management, if the scope of the certification includes the laboratory. This option may also be used for continuous monitoring of the production, including discharges and emissions, and for testing fitness for use when no standard test method exists."

EXAMPLE CONTROL VISIT PLAN

An introduction to the EU Ecolabel & the Competent Body

Reminder of the purpose of the visit i.e. to assure continuous control of products which have been awarded the EU Ecolabel. Key points:

- *All information from the control visit will be kept confidential.*
- *At the end of the inspection a brief summary of the findings will be verbally reported. This will be followed up with a written report.*
- *The report will note any observations or non-conformities which must be acted upon.*
- *A timeline for the actions to be completed will be agreed between the company and the CB.*

An introduction to the Company

To gain a contextual understanding. Key questions:

- *When was the company established?*
- *How many employees?*
- *What percentage of total production are EU Ecolabel products?*
- *Do they work with other ecolabels?*
- *Is there a certified quality control system in place? Does the company have other certifications e.g. SA8000.*

Production status of EU Ecolabel products

Any plans for expanding the licence (or range of existing ecolabelled products)? And are there any planned technological changes to production processes?

Managing ongoing compliance with Ecolabel requirements

Check of procedures and responsibilities:

- *Who is responsible for ensuring that the requirements of the EU Ecolabel criteria are complied with?*
- *Go through the procedures to make sure that only EU Ecolabel approved fibre suppliers and chemicals are used in the EU Ecolabel products.*
- *Examine the list of approved chemicals and suppliers and note who updates the list.*
- *Check a daily production schedule, what information is recorded for each lot/batch?*
- *How many years are the documents from each production lot/batch archived?*
- *What is the Internal quality control system for the product?*
- *How does the company manage changes in production? Who is responsible?*
- *How does their quality control system provide assurance that any changes relevant to the Ecolabel requirements will be reported to the CB?*
- *How does the company handle unforeseen deviations in production?*
- *Who is responsible for managing deviations and are there deviation/exception reports and how long are these reports archived?*
- *What is the proedure for reporting these deviations to the CB?*
- *Can the EU Eolabel products be traced through production and sales systems*

Tour of production facility

Walk around office facilities, production and stock holding areas.

- *Record any relevant comments or observations*
- *Go through the procedures with production staff to assure yourself that only EU Ecolabel approved chemicals are used in the EU Ecolabel products.*

EXAMPLE PROCEDURE FOR MANAGING FALSE OR MISLEADING USE OF THE EU ECOLABEL

What is Misuse?

- *Referring to the Ecolabel in respect of products or services that do not have a licence.*
- *Using the Ecolabel to market and sell products that do not have an Ecolabel licence.*
- *Use of the Ecolabel logo on products and services that do not have an Ecolabel licence.*

Once misuse is identified

- *Review the nature and extent of the misuse.*
- *Refer to Manager/Team leader if the misuse is considered significant or you are unsure how to handle it.*
- *If there is misuse go to the next section, otherwise the case is closed.*

Requesting enforcement

- *Enforcement proceedings are recorded here - (link)*
- *Other relevant documents are here - (link)*
- *Collate and save evidence including photos, labels, samples etc.*

First warning

- *The person responsible for the misuse should be contacted.*
- *If contact is by phone, make a note of the conversation and send a follow up letter or email.*
- *Otherwise prepare a warning letter, describing the problem and what corrective action needs to be taken.*
- *Always give a deadline for remedying the problem.*

Response received

- *The offender's response is checked and reviewed.*
- *The Manager/Team Leader can be involved at this point.*
- *If the misuse is resolved then*
  - *the case is closed;*
  - *forms are updated;*
  - *documentation archived;*
  - *the offender is informed.*
- *If the response is inadequate or nothing is received by the deadline, then the offender should be contacted again.*

Decide on next steps

- *If a written enforcement order (injunction) is to be prepared this should be led by the Manager/Team Leader.*

Sending injunction

- *The enforcement order (injunction) should be specific about what needs to happen to stop the misuse.*
- *The order must contain a statement that if the offence continues it will be reported to the police. The order should include guidelines for appeal and should signed by the Director.*
- *Include a deadline for responding to the injunction, sufficient to answer the letter.*

Response received

- *Review any documentation received from the offender and check if the misuse has been corrected.*
- *If the misuse has been corrected:*
  - *the case is closed;*
  - *forms are updated;*
  - *documentation archived;*
  - *the offender is informed.*
- *If the misuse has not been corrected go to next section.*

Police Report

- *The Director may decide that a report to the Police is required.*
- *The Manager/Team Leader prepare a report with a statement on the extent of the misuse and any economic benefits that the offender may have gained as a result.*
- *All relevant partners of the CB should be informed.*
- *The relevant files and folders on the IT system should be updated.*

Report is sent to the Police

- *The Director signs off the police report.*
- *A copy is sent to the offender*
- *The case is closed.*

CASE STUDY: PROMOTING THE EU ECOLABEL IN BELGIUM

A communications professional assists the EU Ecolabel team in managing promotional activities. A multi-faceted approach is followed, integrated with initiatives led by other parts of Government as well as industry stakeholders. There is a focus on social media because commissioned research has indicated that the main buyers of EU Ecolabel products are young families and mothers - also significant users of social media. Several initiatives are in place:

An Ecolabel Facebook site which incorporates news items and information about wider environmental issues e.g. CO2 calculators. Mini competitions are run offering prizes donated by licence holders.

An Ecolabel web site, which as well as providing general information about the EU Ecolabel, is tailored to target different audiences i.e. consumers, public purchasers and potential applicants.

A voluntary agreement, between the Government, distributors, retailers and producers to increase the range and number of more environmentally friendly detergents on the market. The focus is on products which bear the EU Ecolabel but also on concentrated detergent products. The agreement comprises a series of commitments and associated targets which are monitored by an independent body. In particular there is a target to increase the percentage of EU Ecolabel products to 6-10% by 2019 from approximately 1-2% in 2008. There is also a commitment to the promotion of a more sustainable lifestyle, which includes using EU Ecolabelled detergent products (see www.goedgewassen.be and www.vert-et-propre.be). Already, significant progress has been made, with 2.7% of all household detergents and cleaning products on the market bearing the EU Ecolabel by the end of 2012.

A postcard based campaign using the Commission's marketing leaflet as a basis. The postcards are distributed by licence holders at fairs etc. and provide information including contact details about the EU Ecolabel in Belgium.

The "ecocheque" system. This is an initiative between social partners (employers and employees) to stimulate more sustainable consumption. Employers can choose to give their staff a booklet of cheques worth a maximum of 250 Euros which can be used to purchase ecologically friendly products including those bearing the EU Ecolabel.