

Ministerial Decision 30560/544

**“Lodging of an application with the Industrial Property Organisation for the granting of a supplementary protection certificate for plant protection products”**

Having taken into consideration:

1. The provisions:

a. Of Article 2, para. 1 (g) and (h) of Law 1338/1983 'Implementation of Community law' (Government Gazette 34 A'), as that was amended by Article 6, para. 1 of Law 1440/1984 'participation of Greece in the capital, reserves and provisions of the European Investment Bank, in the capital of the European Coal and Steel Community and the EURATOM Supply Organisation' (Government Gazette 70 A').

b. Of Article 1, para 2 of Law 1733/1987 'Transfer of technology, inventions, and technological innovation, and the setting up of an Atomic Energy Commission' (Government Gazette 171 A').

2. Of Law 2077/1992 'Ratification of the treaty of the European Union' (Government Gazette 136 A').

3. Of Regulation 1610/96/EC of the European Parliament and of the Council of 23 July 1996 (EU No. L198/30 of 8 August 1996).

4. Of Article 29 A' of Law 1558/85 (A/37), as that was added by Article 27 of Law 2081/1992 (A' 154) and replaced by Article 1, para. 2a of Law 2469/1997 (A' 38).

5. The fact that no charge on the state budget is created by the provisions of the present decision, we have determined:

## **CHAPTER ONE**

### **GENERAL PROVISIONS**

#### **Article 1**

##### **Aim**

The aim of the present decision is the determination of the procedure for the granting of a supplementary certificate of protection for plant protection products as to which a patent has been granted and which, before their circulation on the market, are subject to an administrative procedure for the granting of a circulation permit.

#### **Article 2**

##### **Definitions**

For the purposes of the implementation of this decision, the following shall be meant by:

- a. 'Regulation 1610/96': Regulation 1610/96 of the European Parliament and of the Council of the European Union of 23 July 1996 'in connection with the introduction of a supplementary certificate of protection for plant protection products' (EU No. L198/30 of 8 August 1996).
- b. 'Directive 91/414/EEC': Directive 91/414 EEC of the Council of 15 July 1991 'in connection with the marketing of plant protection products' (EU No. L230/1 of 19 August 1991), as that was amended by Directives 95/35/EC (EU No. L172/6 of 22 July 1995) and continues in force and has been incorporated into Greek law by Presidential Decree 115/1997 (Government Gazette 104 A, 30 May 1997) 'on the approval, marketing and control of plant protection products in conformity with Directive 91/414 EEC of the Council, as that has been supplemented'.
- c. "O.B.I.": the Industrial Property Organisation, which has its registered office in Athens (Article 1 of Law 1733/1987).
- d. 'Law 1733/1987': Law 1733/1987 'Transfer of technology, inventions, and technological innovation, and the setting up of an Atomic Energy Commission' (Government Gazette 171 A').
- e. 'Plant protection products': active substances and preparations within the meaning of Article 1, para. 1 of Regulation 1610/96.
- f. 'Patent': the patent granted by the IPO in accordance with Article 8 of Law 1733/87 (Government Gazette 171 A), or the European patent in force in Greece in accordance with Article 23 of Law 1733/87.
- g. 'Certificate': the supplementary certificate of protection which is granted for plant protection products on the terms of Article 3 of Regulation 1610/96.
- h. 'Circulation permit': the granting of approval for the circulation of a plant protection product in the market in accordance with Article 4 of Presidential Decree 115/97 (Government Gazette A' 104), or in accordance with a corresponding provision of national law in the case of a plant protection product the application for approval of which was lodged before the commencement of implementation of Directive 91/414 in the member-states.

## CHAPTER TWO

### PERSONS ENTITLED - PROCEDURE FOR LODGING

#### Article 3

##### Right of acquisition of a certificate

A right to protection shall be possessed by the holder of a patent and his general or special successors in title in accordance with the terms of Article 3 of Regulation 1610/96.

#### Article 4

##### Competent authority

The competent authority for the lodging of the application and the granting of the certificate shall be the Industrial Property Organisation (O.B.I.).

## **Article 5**

### Lodging of an application

1. For the granting of a certificate, the lodging of an application with the O.B.I. in accordance with Article 7 of Regulation 1610/96 shall be required.
2. The application shall be submitted in two copies and shall contain the particulars of Article 8 of Regulation 1610/96.
3. To the application shall be annexed, in addition to the particulars of paragraph 2 of this article, the documents legitimating the person lodging them in the case of a legal person and the receipt for the collection by the O.B.I. of the duty for the lodging of an application for the granting of a certificate.
4. If the terms of the paragraph 2 above of the article are fulfilled, the application shall be accepted for lodging. In this event, the application shall be deemed to be regular, it shall be given a lodging date, and shall be entered in the Reports Register of the O.B.I.
5. As to the lodging and drafting of documents before the O.B.I., Articles 2, 3, 4 and 9 of Ministerial Decision 15928/EFA (Government Gazette 778 B') and 19 of Presidential Decree 77/88 (Government Gazette 33 A') shall be implemented.

## **Article 6**

### Additional information

1. Within four months from regular lodging and after written notice from the O.B.I., the applicant must submit to the O.B.I. any missing information and supporting documents in accordance with Article 5, paragraphs 2 and 3 of the present decision. In this event, the application shall be deemed complete.
2. If after the elapse of the time-limit of paragraph 1 above of this article, the O.B.I. establishes that the data of the application have not been completed, the application shall be rejected.

## **CHAPTER THREE**

### **CERTIFICATE - PUBLICATION**

## **Article 7**

### Granting of a certificate

1. If the application is complete and regular in accordance with Articles 5 and 6 of this decision and if the product which it concerns fulfils the terms of Regulation 1610/96, the O.B.I. shall grant the

certificate without a prior check on the terms of Article 3, para. 1, items (c) and (d) of Regulation 1610/96, on the responsibility of the applicant.

2. After the granting of the certificate, third parties may seek information and copies of the application and of the additional information which concerns the product protected.

### **Article 8**

#### Publication

1. The publication stipulated in Article 11 of Regulation 1610/96 shall be in the Special Industrial Property Bulletin.

2. The publication of the certificate shall also mandatorily state, apart from the data of Article 11, para. 1 of Regulation 1610/96, the term of force of the certificate.

3. In the event of the application being rejected by the O.B.I. in accordance with Article 6, para. 2 of the present Ministerial Decision, the act of rejection and the particulars of Article 9, para. 2 of Regulation 1610/96 shall be published in the Industrial Property Bulletin.

## **CHAPTER FOUR**

### **RIGHTS FROM THE CERTIFICATE - DUTIES**

#### **Article 9**

##### Content of right

The certificate shall give its holder, being a natural or legal person, the exclusive rights of Article 10 of Law 1733/87, which shall be implemented mutatis mutandis.

#### **Article 10**

##### Charges

1. For the lodging of an application for the granting of a certificate, lodging duties shall be paid to the O.B.I.

2. For the granting of protection, the holder of the certificate shall be obliged to make prepayment of annual duties to the O.B.I., in mutatis mutandis implementation of Article 24 of Law 1733/87.

3. The level of the lodging duty and of the annual protection duties shall be determined by a decision of the Administrative Council of the O.B.I.

4. Failure to make punctual payment of the annual protection duties shall entail forfeiture of the rights which stem from the certificate, in mutatis mutandis implementation of Article 16 of Law 1733/87.

## **CHAPTER FIVE**

### **FINAL PROVISIONS**

#### **Article 11**

##### **Commencement of force**

This decision shall come into force on its publication in the Government Gazette.

This decision is to be published in the Government Gazette.