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THE EUROPEAN UNION**

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ADDENDUM TO "I" ITEM NOTE

from: General Secretariat of the Council
to: Permanent Representatives Committee

No. Cion prop.: 7775/12 ENER 406 COTRA 35 CODEC 2359 - COM(2012) 109 final

Subject: Proposal for a Regulation of the European Parliament and of the Council
on a European Union energy-efficiency labelling programme for office equipment
amending Regulation (EC) No 106/2008 on a Community energy-efficiency
labelling programme for office equipment
- *Approval of the final compromise text*

The Annex contains the consolidated text of the above Regulation.

PE-CONS No/YY - 2012/0049(COD)

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

*(EU) No .../2012**of***amending Regulation (EC) No 106/2008 on a Community energy-efficiency labelling programme for office equipment**

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 194(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national Parliaments,

Having regard to the opinion of the European Economic and Social Committee¹,**After consulting** the Committee of the Regions,Acting in accordance with the ordinary legislative procedure²,

¹ *OJ C 191, 29.6.2012, p. 142.*² *Position of the European Parliament of ... (not yet published in the official Journal) and decision of the Council of*

Whereas:

- (1) Regulation (EC) No 106/2008 of the European Parliament and of the Council of 15 January 2008 on a Community energy-efficiency labelling programme for office equipment¹ implements the Energy Star Programme in the Union on the basis of the Agreement between the Government of the United States of America and the European Community on the coordination of energy-efficiency labelling programs for office equipment². This Agreement expired on 28 December 2011 and the Council adopted a decision authorising the Commission to negotiate a new five-year agreement with the United States. Negotiations regarding a new agreement were concluded on 29 November 2011. Therefore, the reference to the new agreement should be inserted.
- (2) It is also necessary to update the references to Union labelling or quality-certification schemes established by Directive 2009/125/EC of the European Parliament and of the Council of 21 October 2009 establishing a framework for the setting of ecodesign requirements for energy-related products³, Directive 2010/30/EU of the European Parliament and of the Council of 19 May 2010 on the indication by labelling and standard product information of the consumption of energy and other resources by energy-related products⁴ and by Regulation (EC) No 66/2010 of the European Parliament and of the Council of 25 November 2009 on the EU Ecolabel⁵.

¹ OJ L 39, 13.2.2008, p. 1.

² OJ L 381, 28.12.2006, p. 26.

³ OJ L 285, 31.10.2009, p. 10.

⁴ OJ L 153, 18.6.2010, p. 1.

⁵ OJ L 27, 30.1.2010, p. 1.

- (3) This ■ Regulation provides a useful opportunity to insert a new name of the Energy Star Board.
- (4) ■ Article VI of the new agreement which provides for two separate product certification schemes (self-certification for products placed on the Union market and third-party certification for products placed on the United States market) *should be taken into account*.
- (5) The link with the relevant provisions of Directive **2012/.../EU** of the European Parliament and of the Council *of ...* on energy efficiency ■¹, should be clarified ■.
- (6) The respective obligations of the Commission and Member States for the enforcement of the Energy Star Programme ■ should be clarified.
- (7) The assessment of the Programme should include a consideration of alternative policy options and provide sufficient time for an informed decision on a possible renewal of the agreement.
- (8) Regulation (EC) No 106/2008 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

¹ *OJL ...*

Article 1

Regulation (EC) No 106/2008 *is hereby* amended as follows:

(-1) the title is replaced by the following:

"Regulation (EC) No 106/2008 of the European Parliament and of the Council of 15 January 2008 on a European Union energy-efficiency labelling programme for office equipment.";

(-1a) Article 1 is replaced by the following:

"Article 1

Objective

This Regulation establishes the rules for the European Union energy efficiency labelling programme for office equipment (hereinafter referred to as the Energy Star programme) as defined in the Agreement.";

(1) Article 4 *is amended as follows*:

(a) *paragraph 1 is replaced by the following*:

"1. The Energy Star programme shall ***contribute to fulfilling the Member States' and the Union's energy efficiency targets as referred to in Articles 1 and 3 of Directive 2012/.../EU of the European Parliament and of the Council of ... on energy efficiency***^{*}. It shall be coordinated, as appropriate, with other Union labelling or quality certification arrangements as well as with schemes such as, in particular, the European Union Ecolabel award scheme, established by Regulation (EC) No 66/2010 ***of the European Parliament and of the Council of 25 November 2009 on the EU Ecolabel***^{**}, the indication by labelling and standard product information of the consumption of energy and other resources by energy-related products, established by Directive 2010/30/EU ***of the European Parliament and of the Council of 19 May 2010 on the indication by labelling and standard product information of the consumption of energy and other resources by energy-related products***^{***} and measures implementing Directive 2009/125/EC ***of the European Parliament and of the Council of 21 October 2009 establishing a framework for the setting of ecodesign requirements for energy-related products***^{****}. That coordination shall include the exchange of evidence and, if appropriate, the setting of common levels of specifications and requirements across the different schemes.

* *OJ L ...*

** *OJ L 27, 30.1.2010, p. 1.*

*** *OJ L 153, 18.6.2010, p. 1.*

**** *OJ L 285, 31.10.2009, p. 10."*

(b) paragraphs 4 and 5 are replaced by the following:

"4. Other existing and new voluntary energy-efficiency labelling schemes for office equipment products in the Member States may co-exist with the Energy Star programme.

■

5. Without prejudice to any ■ Union rules on conformity assessment and conformity marking and/or to any international agreement concluded between the ■ Union and third countries as regards access to the ■ Union market, products covered by this Regulation which are placed on the ■ Union market may be tested by the Commission or Member States in order to verify their compliance with the requirements of this Regulation.";

(2) Article 6 is replaced by the following:

"Article 6

Promotion of energy-efficiency criteria

1. For the duration of the Agreement central government authorities within the meaning of Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts^{*}, shall, without prejudice to Union and national law and economic criteria, specify energy-efficiency requirements not less demanding than the Common Specifications for public supply contracts having a value equal to or greater than the thresholds laid down in Article 7 of that Directive. ***Contracting authorities at regional and local level shall be encouraged by Member States to use these requirements.*** This Article shall apply without prejudice to the provisions laid down in Article 6 of **■ Directive 2012/...⁺/EU and in point (c) of Annex III to that Directive.**
2. For the duration of the Agreement the Commission and the other Union institutions shall, without prejudice to Union and national law and economic criteria, specify energy-efficiency requirements not less demanding than the Common Specifications for public supply contracts having a value equal to or greater than the thresholds laid down in Article 7 of Directive 2004/18/EC.

^{*} ***OJ L 134, 30.4.2004, p. 114.***";

⁺ ***NB: The number of the Energy Efficiency Directive will be inserted once it is known.***

- (3) Article 7 is deleted;
- (4) Article 8 is replaced by the following:

"Article 8

European Union Energy Star Board

1. The Commission shall establish a European Union Energy Star Board (EUESB) consisting of national representatives referred to in Article 9 and representatives of interested parties. The EUESB shall review the implementation of the Energy Star programme within the Union and shall provide the Commission with advice and assistance, as appropriate, to enable it to carry out its role as Management Entity, as referred to in Article IV of the Agreement.
2. The Commission shall ensure that, to the extent possible in the conduct of its activities, the EUESB observes, in respect of each office equipment product group, the balanced participation of all relevant interested parties concerned with that product group, such as manufacturers, retailers, importers, environmental protection groups and consumer organisations.
3. The Commission, assisted by the EUESB, shall monitor the market penetration of products bearing the Common Logo and developments in the energy efficiency of office equipment, with a view to the timely revision of the Common Specifications.

4. The Commission shall establish the EUESB's rules of procedure, taking account of the views of national representatives in the EUESB.";

(4a) point (a) in Article 10 is replaced by the following:

"(a) the objectives for energy-efficiency improvement, bearing in mind the need to pursue a high standard of consumer and environmental protection and the market penetration which the Energy Star programme should seek to achieve at Union level;"

- (5) Article 11 is replaced by the following:

"Article 11

Preparatory procedures for the revision of technical criteria

1. With a view to preparing for the revision of the Common Specifications and of the office equipment product groups covered by Annex C to the Agreement, and before submitting a draft proposal or replying to USEPA in accordance with the procedures laid down in the Agreement and in Council Decision ... of ... concerning conclusion of the Agreement between the Government of the United States of America and the European Union on the coordination of energy-efficiency labelling programmes for office equipment^{*}, the steps set out in paragraphs 2 to 5 shall be taken.

2. The Commission may request the EUESB to make a proposal for the revision of the Agreement or of the Common Specifications for a product. The Commission may make a proposal to the EUESB for the revision of the Common Specifications for a product or the Agreement. The EUESB may also make a proposal to the Commission on its own initiative.
3. The Commission shall consult the EUESB whenever it receives a proposal for revision of the Agreement from USEPA.
4. When giving their views to the Commission, the members of the EUESB shall take into account the results of feasibility and market studies and *best* available technology for reducing energy consumption.
5. The Commission shall take particular account of the objective of setting Common Specifications at an ambitious level, as provided for in Article I, paragraph 3, of the Agreement, with the aim of reducing energy consumption and shall have due regard for the technology available and the associated *life-cycle* costs. In particular, the EUESB shall, before giving its views on any new Common Specifications, take into account the latest results of ecodesign studies.

* *OJL ...*;

(6) *Article 12(3) is replaced by the following:*

"

3. The Commission shall ensure proper use of the Common Logo by undertaking or coordinating action described in Article IX, paragraphs 2, 3 and 4, of the Agreement. Member States shall take action as appropriate, notably described in Article IX, paragraph 5, of the Agreement to ensure conformity with the provisions of this Regulation in their own territory and shall inform the Commission. Member States may refer evidence of non-compliance by programme participants to the Commission for initial action."

(6a) Article 13 is replaced by the following:

"Article 13

Review and revision

Before the Parties to the Agreement discuss its renewal in accordance with Article XIV, paragraph 2 thereof the Commission shall evaluate the effectiveness of the Energy Star programme in improving the energy efficiency of office equipment, *in creating new jobs* and in providing market opportunities for manufacturers, and assess alternative policy options such as those provided by Union legislation, notably Directive 2009/125/EC and 2010/30/EC. The results of such an evaluation and assessment shall be reported to the European Parliament and to the Council at least two years before the expiry of the Agreement."

(7) Article 14 is deleted.

Article 2

Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

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

Done at Brussels,

For the European Parliament
The President

For the Council
The President
