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INFORMATION NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee/Council

Subject: Proposal for a DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on adapting Directive 2012/27/EU of the European Parliament and of the Council on energy efficiency [as amended by Directive 2018/XXX/EU] and Regulation (EU) 2018/XXX of the European Parliament and of the Council [Governance of the Energy Union], by reason of the withdrawal of the United Kingdom from the European Union
- Outcome of the European Parliament's first reading,
(Strasbourg, 11 to 14 February 2019)

I. INTRODUCTION

In accordance with the provisions of Article 294 of the TFEU and the joint declaration on practical arrangements for the codecision procedure ¹, a number of informal contacts have taken place between the Council, the European Parliament and the Commission with a view to reaching an agreement on this dossier at first reading, thereby avoiding the need for second reading and conciliation.

¹ OJ C 145, 30.6.2007, p.5

In this context, the rapporteur, Miroslav POCHE (S&D, CZ), presented eight compromise amendments (amendments 1-8) to the proposal for a Decision on behalf of the Committee on Industry, Research and Energy. These amendments had been agreed during the informal contacts referred to above. No other amendments were tabled.

II. VOTE

When it voted on 14 February 2019, the plenary adopted these compromise amendments (amendments 1-8) to the proposal for a Decision. The Commission's proposal as thus amended constitutes the Parliament's first-reading position which is contained in its legislative resolution as set out in the Annex hereto².

The Parliament's position reflects what had been previously agreed between the institutions. The Council should therefore be in a position to approve the Parliament's position.

The act would then be adopted in the wording which corresponds to the Parliament's position.

² The version of the Parliament's position in the legislative resolution has been marked up to indicate the changes made by the amendments to the Commission's proposal. Additions to the Commission's text are highlighted in *bold and italics*. The symbol "■" indicates deleted text.

Amending Directive 2012/27/EU on energy efficiency and Regulation (EU) 2018/1999 on the Governance of the Energy Union and Climate Action, by reason of the withdrawal of the United Kingdom from the European Union *I**

European Parliament legislative resolution of 14 February 2019 on the proposal for a decision of the European Parliament and of the Council on adapting Directive 2012/27/EU of the European Parliament and of the Council on energy efficiency [as amended by Directive 2018/XXX/EU] and Regulation (EU) 2018/XXX of the European Parliament and of the Council [Governance of the Energy Union], by reason of the withdrawal of the United Kingdom from the European Union (COM(2018)0744 – C8-0482/2018 – 2018/0385(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2018)0744),
 - having regard to Article 294(2), Article 192(1) and Article 194(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0482/2018),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the undertaking given by the Council representative by letter of 30 January 2019 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,
 - having regard to Rule 59 of its Rules of Procedure,
 - having regard to the report of the Committee on Industry, Research and Energy (A8-0014/2019),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Position of the European Parliament adopted at first reading on 14 February 2019 with a view to the adoption of Decision (EU) 2019/... of the European Parliament and of the Council on amending Directive 2012/27/EU on energy efficiency and Regulation (EU) 2018/1999 on the Governance of the Energy Union and Climate Action, by reason of the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the Union

(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 Articles 192(1) and 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 Committee³,

Having regard to the opinion of the Committee of the Regions⁴,

Acting in accordance with the ordinary legislative procedure⁵,

³ OJ C , , p. .

⁴ OJ C , , p. .

⁵ Position of the European Parliament of 14 February 2019.

Whereas:

- (1) On 29 March 2017, the United Kingdom submitted the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union (TEU). ***The Treaties will cease to apply to the United Kingdom from the date of entry into force of a withdrawal agreement or, failing that, two years after that notification, i.e. from 30 March 2019, unless the European Council, in agreement with the United Kingdom, unanimously decides to extend that period.***

- (2) *The withdrawal agreement as agreed between the negotiators contains arrangements for the application of provisions of Union law to and in the United Kingdom beyond the date on which the Treaties cease to apply to and in the United Kingdom. If that agreement enters into force, Directive (EU) 2018/2002⁶, amending Directive 2012/27/EU⁷ of the European Parliament and of the Council, and Regulation (EU) 2018/1999 of the European Parliament and of the Council⁸, will apply to and in the United Kingdom during the transition period in accordance with that agreement and will cease to apply at the end of that period.*

⁶ *Directive (EU) 2018/2002 of the European Parliament and of the Council of 11 December 2018 amending Directive 2012/27/EU on energy efficiency (OJ L 328, 21.12.2018, p. 210).*

⁷ *Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC (OJ L 315, 14.11.2012, p. 1).*

⁸ *Regulation (EU) 2018/1999 of the European Parliament and of the Council of 11 December 2018 on the Governance of the Energy Union and Climate Action, amending Regulations (EC) No 663/2009 and (EC) No 715/2009 of the European Parliament and of the Council, Directives 94/22/EC, 98/70/EC, 2009/31/EC, 2009/73/EC, 2010/31/EU, 2012/27/EU and 2013/30/EU of the European Parliament and of the Council, Council Directives 2009/119/EC and (EU) 2015/652 and repealing Regulation (EU) No 525/2013 of the European Parliament and of the Council (OJ L 328, 21.12.2018, p. 1).*

- (3) *Article 3(5) of Directive 2012/27/EU*, which was introduced by Directive (EU) 2018/2002, requires Member States to set indicative national energy efficiency contributions towards the Union's energy efficiency *targets* of at least 32,5 % for 2030. In setting those contributions, the Member States *are to* take into account the Union's 2030 energy consumption *in terms of primary and/or final energy*.
- (4) The first subparagraph of Article 6(1) of Regulation (EU) 2018/1999 requires Member States to take into account the Union's 2030 energy consumption *in terms of primary and/or final energy* in their indicative national energy efficiency contributions towards the Union targets. In accordance with the first subparagraph of Article 29(3) of that Regulation, the energy consumption at Union level is also relevant for the Commission's assessment of progress towards collectively achieving the Union's targets.

- (5) Due to the United Kingdom's withdrawal from the Union, it is necessary to amend the projected energy consumption figures for the Union in 2030 to reflect the Union of 27 Member States excluding the United Kingdom ('EU 27'). Projections made for the Union headline *targets* of at least 32,5 % show that primary energy consumption should be equal to 1 273 million tonnes of oil equivalent (Mtoe) and final energy consumption should be equal to 956 Mtoe in 2030 for the Union of 28 Member States. The equivalent projections for the EU 27 show that primary energy consumption should be equal to 1 128 Mtoe and final energy consumption should be equal to 846 Mtoe in 2030. This requires the amendment of the figures for energy consumption levels in 2030.
- (6) The same projections for energy consumption in 2030 are relevant for Articles 6 and 29 of Regulation (EU) 2018/1999.

- (7) *In accordance with Article 4(3) of Regulation (EEC, Euratom) No 1182/71 of the Council⁹, the cessation of the application of acts fixed at a given date is to occur on the expiry of the last hour of the day falling on that date. This Decision should therefore apply from the day following that on which Directive 2012/27/EU and Regulation (EU) 2018/1999 cease to apply to the United Kingdom.*
- (8) Directive 2012/27/EU and Regulation (EU) 2018/1999 should therefore be amended accordingly.
- (9) In order to prepare without delay for the withdrawal of the United Kingdom, this Decision should enter into force on the third day following that of its publication in the *Official Journal of the European Union*,

HAVE ADOPTED THIS DECISION:

⁹ *Regulation (EEC, Euratom) No 1182/71 of the Council of 3 June 1971 determining the rules applicable to periods, dates and time limits (OJ L 124, 8.6.1971, p. 1).*

Article 1

Amendment to Directive 2012/27/EU

In Article 3 of Directive 2012/27/EU, paragraph 5 is replaced by the following:

- ‘5. Each Member State shall set indicative national energy efficiency contributions towards the Union's 2030 targets as referred to in Article 1(1) of this Directive in accordance with Articles 4 and 6 of Regulation (EU) 2018/1999 of the European Parliament and of the Council*. When setting those contributions, Member States shall take into account that the Union's 2030 energy consumption has to be no more than 1 128 Mtoe of primary energy and/or no more than 846 Mtoe of final energy. Member States shall notify those contributions to the Commission as part of their integrated national energy and climate plans as referred to in, and in accordance with, the procedure pursuant to Articles 3 and 7 to 12 of Regulation (EU) 2018/1999.

* Regulation (EU) 2018/1999 of the European Parliament and of the Council of 11 December 2018 on the Governance of the Energy Union and Climate Action, amending Regulations (EC) No 663/2009 and (EC) No 715/2009 of the European Parliament and of the Council, Directives 94/22/EC, 98/70/EC, 2009/31/EC, 2009/73/EC, 2010/31/EU, 2012/27/EU and 2013/30/EU of the European Parliament and of the Council, Council Directives 2009/119/EC and (EU) 2015/652 and repealing Regulation (EU) No 525/2013 of the European Parliament and of the Council (OJ L 328, 21.12.2018, p. 1).’

Article 2
Amendments to Regulation (EU) 2018/1999

Regulation (EU) 2018/1999 is amended as follows:

(1) in Article 6(1), the first subparagraph is replaced by the following:

“1. In its indicative national energy efficiency contribution for 2030 and for the last year of the period covered for the subsequent national plans pursuant to point (b)(1) of Article 4 of this Regulation, each Member State shall take into account that, in accordance with Article 3 of Directive 2012/27/EU, the Union's 2020 energy consumption is to be no more than 1 483 Mtoe of primary energy or no more than 1 086 Mtoe of final energy and the Union's 2030 energy consumption is to be no more than 1 128 Mtoe of primary energy and/or no more than 846 Mtoe of final energy.”;

(2) in Article 29(3), the first subparagraph is replaced by the following:

“3. In the area of energy efficiency, as part of its assessment referred to in paragraph 1, the Commission shall assess progress towards collectively achieving a maximum energy consumption at Union level of 1 128 Mtoe of primary energy and 846 Mtoe of final energy in 2030 in accordance with Article 3(5) of Directive 2012/27/EU.”.

Article 3
Time limits

Articles 1 and 2 of this Decision are without prejudice to the time *limits* provided for in Article 2 of Directive (EU) 2018/2002 and in Article 59 of Regulation (EU) 2018/1999.

Article 4
Entry into force and application

1. This Decision shall enter into force on the *third* day following that of its publication in the *Official Journal of the European Union*.
2. **Articles 1 and 2 shall apply from the day following that on which Directive 2012/27/EU and Regulation (EU) 2018/1999 cease to apply to and in the United Kingdom.**

Article 5
Addressees

This Decision is addressed to the Member States.

Done at ...,

For the European Parliament

For the Council

The President

The President
