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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: COUNCIL DECISION on the position to be adopted, on behalf of the European Union, within the EEA Joint Committee concerning the amendment to Annex II (Technical regulations, standards, testing and certification) and Annex IV (Energy) to the EEA Agreement (EED)

COUNCIL DECISION (EU) .../...

of ...

**on the position to be adopted, on behalf of the European Union,
within the EEA Joint Committee concerning the amendment to Annex II
(Technical regulations, standards, testing and certification)
and Annex IV (Energy) to the EEA Agreement (EED)**

(Text with EEA relevance)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 194(2) in conjunction with Article 218(9) thereof,

Having regard to Council Regulation (EC) No 2894/94 of 28 November 1994 concerning arrangements for implementing the Agreement on the European Economic Area¹, and in particular Article 1(3) thereof,

Having regard to the proposal from the European Commission,

¹ OJ L 305, 30.11.1994, p. 6, ELI: <http://data.europa.eu/eli/reg/1994/2894/oj>.

Whereas:

- (1) The Agreement on the European Economic Area² (the ‘EEA Agreement’) entered into force on 1 January 1994.
- (2) Pursuant to Article 98 of the EEA Agreement, the EEA Joint Committee may decide to amend, inter alia, Annex II (Technical regulations, standards, testing and certification) and Annex IV (Energy) to the EEA Agreement.
- (3) Directive 2012/27/EU of the European Parliament and of the Council³ and Directive (EU) 2018/2002 of the European Parliament and of the Council⁴ should be incorporated into the EEA Agreement.
- (4) Several provisions of Directive 2012/27/EU as amended by Directive (EU) 2018/2002 require substantive adaptations that reflect the specificities of the EEA Agreement and of the EFTA States.

² OJ L 1, 3.1.1994, p. 3, ELI: http://data.europa.eu/eli/agree_international/1994/1/oj.

³ 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, ELI: <http://data.europa.eu/eli/dir/2012/27/oj>).

⁴ 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, ELI: <http://data.europa.eu/eli/dir/2018/2002/oj>).

- (5) Since the Union's energy efficiency headline targets for 2020 and 2030 do not apply to the EFTA States, Article 1(1) of Directive 2012/27/EU as amended by Directive (EU) 2018/2002 and Articles 3(1)(a) and 3(5) of Directive 2012/27/EU should not apply to the EFTA States. However, the EFTA States set out in a voluntary manner their national indicative targets for energy efficiency, as set out in the Declaration of EFTA States attached to the EEA Joint Committee Decision.
- (6) Article 5 of Directive 2012/27/EU refers to the minimum energy performance requirements to be complied with based on Article 4 of Directive 2010/31/EU of the European Parliament and of the Council⁵. It is appropriate to allow Iceland to fulfil its obligations on the minimum energy performance requirements in central government's buildings based on its national legislation, given that Iceland has a derogation from incorporating Directive 2010/31/EU into its national law.
- (7) It is also appropriate to adapt Article 20(5) of Directive 2012/27/EU, in particular by replacing the reference to Article 5(1) with a more general reference to Article 5 in order to reflect the adaptations made under the latter provisions.
- (8) New energy savings to be achieved by Iceland pursuant to Article 7(1) of Directive 2012/27/EU should be set at a level that reflects the specificities of Iceland's energy market and energy mix.

⁵ Directive 2010/31/EU of the European Parliament and of the Council of 19 May 2010 on the energy performance of buildings (OJ L 153 18.6.2010, p. 13, ELI: <http://data.europa.eu/eli/dir/2010/31/oj>).

- (9) Given that the Icelandic energy system is isolated, near fossil-free, with high levels of security of supply and energy independence, and relies extensively on renewable geothermal energy with special characteristics, it is appropriate to allow a derogation for Iceland from certain requirements as regards metering set out in Articles 9a, 9b and 9c of Directive 2012/27/EU.
- (10) Given that Iceland has no natural gas infrastructure and is exempt from Directive 2009/73/EC on the internal market for natural gas, Articles 9 and 10 of Directive 2012/27/EU as regards metering for natural gas and billing information should not apply to Iceland.
- (11) Given that Directive 2004/8/EC of the European Parliament and of the Council⁶ does not apply to geothermal cogeneration in Iceland, Article 14 and Article 15 of Directive 2012/27/EU as amended by Directive (EU) 2018/2002 which correlate to Directive 2004/8/EC should not apply to Iceland.
- (12) Annex II (Technical regulations, standards, testing and certification) and Annex IV (Energy) to the EEA Agreement should therefore be amended accordingly.
- (13) The position of the Union within the EEA Joint Committee should therefore be based on the attached draft decision,

HAS ADOPTED THIS DECISION:

⁶ Directive 2004/8/EC of the European Parliament and of the Council of 11 February 2004 on the promotion of cogeneration based on a useful heat demand in the internal energy market and amending Directive 92/42/EEC (OJ L 52, 21.02.2004, p. 50, ELI: <http://data.europa.eu/eli/dir/2004/8/oj>).

Article 1

The position to be adopted, on behalf of the Union, within the EEA Joint Committee on the proposed amendment of Annex II (Technical regulations, standards, testing and certification) and Annex IV (Energy) to the EEA Agreement, shall be based on the draft decision of the EEA Joint Committee attached to this Decision.

Article 2

This Decision shall enter into force on the date of its adoption.

Done at...,...

For the Council

The President
