



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 31 March 2010

**Interinstitutional File:
2008/0222 (COD)**

**5247/10
ADD 1**

**ENER 7
ENV 8
CONSOM 5
CODEC 10**

DRAFT STATEMENT OF THE COUNCIL'S REASONS

Subject: Position of the Council at first reading with a view to adoption of a Directive of the European Parliament and of the Council on the indication by labelling and standard product information of the consumption of energy and other resources by energy-related products

DRAFT STATEMENT OF THE COUNCIL'S REASONS

I. INTRODUCTION

1. On 17 November 2008, the European Commission submitted a recast proposal for a Directive on the indication by labelling and standard product information of the consumption of energy and other resources by energy-related products to the Council and the European Parliament with Art. 95 as legal basis¹.
2. The European Economic and Social Committee adopted its opinion on 24 March 2009². The Committee of the Regions did not yet deliver an opinion.
3. The European Parliament adopted its opinion in first reading on 5 May 2009³, approving 60 amendments.
4. On , the Council adopted its position at first reading in accordance with Article 294 of the TFEU.

II. OBJECTIVE OF THE PROPOSAL

Together with two other proposals ⁴ this proposal is part of the Energy Efficiency Package tabled by the Commission in November 2008.

The main aim of the recast proposal is the extension of the scope of the current Directive 92/75/EEC, restricted to household appliances, to allow for the labelling of all energy related products including the household, commercial and industrial sectors and some non-energy using products such as windows which have a significant potential for energy savings once in use or installed. It follows in particular the overall objective to improve the energy efficiency performance of those products, thereby contributing to the Community objectives of protecting the environment and combating climate change, in line with the EU's climate/energy policy goals for 2020 as regards greenhouse gas emissions.

¹ doc. 15906/08

² OJ C 228, 22.9.2009, p. 90.

³ doc. 9322/09

⁴ The other two proposals in this package are:

- draft Directive of the European Parliament and of the Council on the energy performance of buildings (recast) (2008/0223 COD);
- Regulation (EC) No 1222/2009 of the European Parliament and of the Council on the labelling of tyres with respect to fuel efficiency and other essential parameters (OJ L 342 of 22.12.2009, p. 46).

III. ANALYSIS OF THE COUNCIL POSITION AT FIRST READING

1. In view of the tight timetable required in order to reach early agreement on this proposal as called for by the European Council, the Council aimed from the start at identifying elements that would be acceptable to both Parliament and Council, rather than drawing up a complete agreed Council position before entering into negotiations with Parliament. In order to make rapid progress while taking into account the date of entry into force of the Treaty on the Functioning of the EU, it was agreed to proceed in two steps:
 - § Reaching agreement on the substance of the Directive. Following consultations with the EP, this first step was concluded in November 2009. This agreement was confirmed by Coreper on 19 November 2009 and, on the level of the EP ITRE committee, by means of a letter of its Chairman, dated 2 December 2009.
 - § Reaching agreement on the modifications resulting from the entry into force of the TFEU, concerning notably the adaptation of the legal basis and the comitology provisions. Following consultations with the EP, this second step was concluded in March 2010, relying to the extent possible on horizontal solutions, notably as regards the consultation of experts, the EP, Council and Commission statement on Article 290 and the Commission statement on recess periods. This agreement was confirmed by Coreper on 24 March 2010 and, on the level of the EP ITRE committee, by means of a letter of its Chairman, dated 25 March 2010.
2. The Council position incorporates the two agreements recalled above. Its main elements are:

Provisions on the label and the label layout:

The Council has based the format of the label on the current label layout with the classes A to G, allowing at the same time for three additional classes, with the total number of classes being limited to seven, and providing for a clear marking of the corresponding colours on the label. When a new class is added, the colour scale will move. In this way, a clearly visible and legible label layout, well comprehensible for the consumer, is guaranteed, as requested by the EP in the first part of its amendment 70. Moreover, the Council has laid down that the details of a possible reclassification of products are to be determined on a case-by-case basis in the relevant delegated acts. Finally, in a review clause, the Commission is asked to assess, by the end of 2014, the need for amending the provisions on the label layout in the light of technical evolution and the understanding by consumers of the label layout.

In line with amendment 52, the Council has also ensured that measures can be taken against unauthorised use of the label.

Provisions on advertisement

The Council has partly followed the EP in its amendment 32 and has made the inclusion of the energy efficiency class in advertisements mandatory for all cases where energy-related or price information is disclosed. Regarding mandatory information on energy consumption or a reference to the energy efficiency class of the product in technical promotional material, the Council has fully accepted EP amendment 33.

Provision on public procurement

The Council has provided for the possibility for Member States to require their contracting authorities to procure only products fulfilling the energy efficiency criteria, *i.e.* belonging to the highest energy efficiency class and having the highest performance levels, responding in this way partly to amendment 40.

* * *

In addition to the above main elements, and with a view to reaching an early agreement, the Council examined every amendment of the European Parliament. Wherever possible, amendments were accepted, either in full or partially; sometimes the spirit of an amendment was addressed in another article or in a recital. Thus, in its position, the Council has

- Accepted fully (sometimes with redrafting), partly or in spirit the following 40 amendments: 1, 2, 72, 4, 53 + 64, 7, 74, 8 - 11, 54 + 65, 17 - 19, 21 - 23, 25 - 33, 35, 36, 56 + 68, 38, 40, 43, 70 (first part), 50 - 52;
- Not been able to accept the following 21 amendments: 3, 5, 12 - 15, 20, 59, 24, 66, 67, 39, 41 - 42, 69, 76, 45, 47, 70 (second part), 58 + 71.
