



COMMISSION OF THE EUROPEAN COMMUNITIES

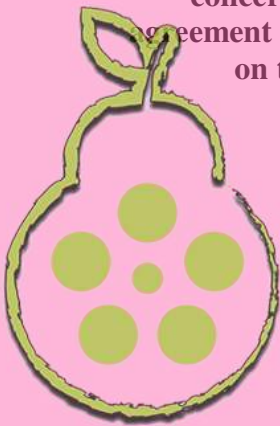
Brussels, 01.07.1999
COM(1999)328 final

99/0135 (CNS)

Proposal for a

COUNCIL DECISION

**concerning the conclusion on behalf of the European Community of an
agreement between the United States of America and the European Community
on the Co-ordination of Energy-Efficient Labelling Programmes**



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(presented by the Commission)

EXPLANATORY MEMORANDUM

1. Office equipment (personal computers, monitors, fax machines, scanners, copiers and printers) accounts for a large proportion of electricity consumption in the tertiary sector. It currently consumes about 50 TWh per year. Moreover, this is one of the fastest growing electricity loads in the Community, as it is linked to the fastest growing sector of the economy, the service sector, and to the increased use of information technology (e.g. internet, etc.). The Commission, under the SAVE¹ Programme, has launched actions to reduce the electricity consumption of all the major end-use devices, including domestic appliances (e.g. refrigerators), service-sector equipment (e.g. ballasts), and industrial equipment (e.g. electric motors). Under the SAVE programme, particular care has been taken to implement the most effective and cost-effective measures to achieve energy savings, maximise the benefits for the consumer and minimise the impact on manufacturers. These measures include minimum efficiency standards, labelling and other consumer information actions, and negotiated agreements. For office equipment, the most effective energy-saving feature is the ability to substantially reduce power consumption while not in use, i.e. reduce power consumption while in stand-by².

Member State and independent experts indicated that the most effective and cost-effective measure to reduce the energy consumption of office equipment was to introduce a voluntary labelling programme, using a logo to identify the most efficient office equipment. They also made other important points:

- office equipment was a fast-changing product area, where technical development was proceeding at a very fast pace; therefore, in order to keep up with technological development, a voluntary programme based on self-assessment was the recommended option;
- office equipment was traded world-wide (e.g. industry produces monitors in one country and ships them all around the world); for manufacturers therefore, it was essential to harmonise energy-efficiency requirements, test methods and labels to avoid the need to comply with many conflicting technical criteria;
- energy-efficient office equipment was capable of reducing power consumption while in stand-by, but this required the involvement of users or company IT managers to enable this feature³; there was consequently a need for labelling to go hand in hand with intensive information actions to educate users to enable the energy-saving features;

¹ OJ L 307 of 8.11.1991, p.34 - Specific Actions for Vigorous Energy Efficiency. On 16 December 1996 the Council decided on a new multi-annual programme (SAVE II) OJ L 335 of 24.12.1996.

² A typical PC with monitor consumes up to 200 KWh when in active mode, but if the energy-saving features are enabled this can be reduced to about 50 W or less.

³ A recent survey carried out for the Commission indicates that only about 10% of PC and monitors in commercial organisations have their energy-saving features enabled.

- in the United States of America, the US EPA introduced in 1993 a voluntary labelling programme for office equipment, the Energy Star Program; this was a great success from the outset, resulting in a high level of participation by manufacturers, encouraging the vast majority of manufacturers to introduce energy-saving features, and raising consumer awareness of the stand-by losses of office equipment.

3. Against this background and in agreement with Member State experts and European manufacturers, the Commission decided that the best way of reducing the energy consumption of office equipment was to introduce the Energy Star Programme in the Community. This would: i) build upon the advantage of an already well-recognised logo in the Community market; ii) maximise manufacturers' participation and their active involvement in promoting energy savings; and iii) use a well-recognised logo to educate users to energy savings. Moreover, this would result in clear advantage for Community economic operators. The Energy Star logo was the "de facto" required standard for office equipment sold on the US market. In addition, the Energy Star requirements were becoming standard world-wide (in the Community as well), and this without any European input. The Commission stated that the introduction of the Energy Star as the Community labelling programme for office equipment would be possible only if the Community were to become an equal partner alongside the US authorities in running the programme and setting the technical requirements. Moreover, this had to be translated into a binding agreement between the USA and the Community. At the time, Japan also expressed an interest in entering into such an agreement, and after exploratory talks it was therefore planned to negotiate and conclude a tripartite agreement.

4. On 14 February 1996, the Commission accordingly requested a mandate⁴ to negotiate an agreement with the USA and Japan on the co-ordination of labelling programmes for energy-efficient office equipment. In September 1996, the Council authorised⁵ the Commission to negotiate such an agreement with the USA and Japan, and approved a set of negotiating directives. During the early phase of the negotiations, it emerged that Japan was not interested in a binding international agreement, having already concluded an administrative arrangement with the USA. Japan therefore decided in February 1998 to withdraw from the negotiations. The Commission subsequently informed the Council of this change. Although a tripartite agreement would have done more to avoid an imbalance in favour of the USA, and better served the interests of EU economic operators, the Commission felt that the advantages of a bilateral agreement between the Community and the United States were still significant and therefore worth pursuing. The Council's Energy working group was accordingly informed, and the Commission was allowed to continue negotiating with the USA on a bilateral agreement based on the same mandate.

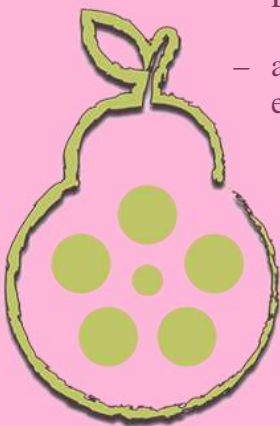
⁴ SEC(96)224 final.

⁵ Doc. 9485/1/96 ENER 120 ENV 280 RELEX 30 REV1.

5. The Community's negotiation position had to take full account of the European Community's policies, in particular its energy, environmental and internal market policies. The negotiations resulted in the attached agreement, to be concluded by an Exchange of letters between the European Community and the United States of America. In particular, the present proposal would contribute to the Community's objective of reducing CO₂ emissions and result in large economic savings for office equipment users. The interests of EU economic operators are fully taken into account and Community IT industry fully supports the proposal. As regards the ways and means of implementing the Energy Star programme within the Community, the Commission will come forward with a Proposal for a Council Regulation on a Community labelling programme for office equipment. The proposed Council Regulation will reflect the terms of the present proposal.

6. In the light of the above considerations, the Commission proposes that the Council:

- conclude the attached Agreement between the Government of the United States of America and the European Community on the Co-ordination of Energy-Efficient Labelling Programmes; and
- authorise the President of the Council to appoint the persons duly empowered to sign it on behalf of the European Community.



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concerning the conclusion on behalf of the European Community of an agreement between the United States of America and the European Community on the Co-ordination of Energy-Efficient Labelling Programmes

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 130, in conjunction with Article 300(2), first sentence thereof,

Having regard to the Treaty establishing the European Community, and in particular Article 300(4) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

(1) Whereas a comprehensive study on energy efficiency in office equipment indicated that a voluntary labelling programme for office equipment is the most cost-effective action to achieve the potential energy savings; whereas the study proved that there is added value in an international co-ordination of labelling programmes to achieve the potential as well as to ensure fair comparability between products of the same type;

(2) Whereas it is desirable to facilitate international trade and to reduce the regulatory burden on the operators whilst maximising the energy savings;

(3) Whereas the Council has authorised the Commission to negotiate an agreement with Japan and the United States of America; Whereas Japan officially withdrew from the negotiation; Whereas there are clear benefits to conclude a bilateral agreement;

(4) Whereas an agreement has been negotiated with the United States of America;

HAS DECIDED AS FOLLOWS:

Article 1

The Agreement between the United States of America and the European Community on the Co-ordination of Energy-Efficient Labelling Programmes is hereby approved on behalf of the European Community. The text of the agreement is attached to this Decision.

Article 2

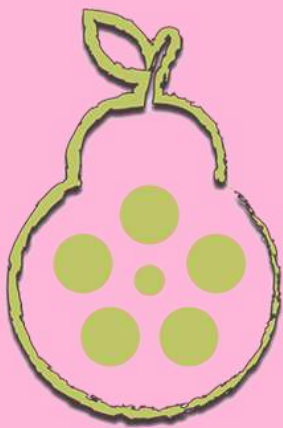
The Council hereby authorises the Commission to adopt, on behalf of the European Community, modifications to the Agreement, following the procedures indicated in Article IX and X of the Agreement.

Article 3

The President of the Council is hereby authorised to designate the person empowered to sign the Agreement referred to in Article 1 in order to bind the European Community.

Done at Brussels,

*For the Council
The President*



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ANNEX

Agreement between the Government of the United States of America and the European Community on the Coordination of Energy-Efficient Labeling Programmes

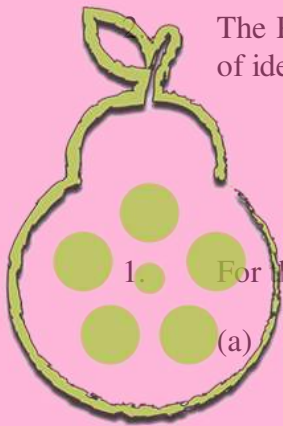
The Government of the United States of America and the European Community, hereinafter “the Parties”, desiring to maximize energy savings and environmental benefits by stimulating the supply of and demand for energy-efficient products, have agreed as follows :

Article I

General Principles

1. A common set of energy-efficiency specifications and a common logo shall be used by the Parties for the purpose of establishing consistent targets for manufacturers, thereby maximizing the effect of their individual efforts on the supply of and demand for such product types.

The Parties shall use the International ENERGY STAR Logo for the purpose of identifying qualified energy-efficient product types listed in Annex C.



Article II

Definitions

1. For the purposes of this Agreement :

- (a) **“ENERGY STAR”** means the U.S.-registered service mark designated in Annex A and owned by the United States Environmental Protection Agency (“U.S. EPA”);
- (b) **“International Logo”** means the U.S.-registered certification mark designated in Annex A and owned by U.S. EPA;
- (c) **“ENERGY STAR Marks”** means the “ENERGY STAR” name and the International Logo, as well as any versions of these marks that may be developed or modified by the Management Entities or Program Participants, as herein defined, including the sign or marking, contained in Annex A, which will be adopted by the European Community to implement the terms of this Agreement;
- (d) **“ENERGY STAR Labeling Program”** means a program administered by a Management Entity using common energy-efficiency specifications, marks, and guidelines to be applied to designated product types;
- (e) **“Program Participants”** means manufacturers, vendors, or resale agents that sell designated energy-efficient products that meet the specifications of and who have chosen to participate in the ENERGY

STAR Labeling Program by registering or entering an agreement with the Management Entity of either Party;

- (f) **“Specifications”** are the energy-efficiency and performance requirements, including testing methods listed in Annex C, used by Management Entities and Program Participants to determine qualification of energy-efficient products for the International Logo.

Article III

Management Entities

Each Party hereby designates a management entity responsible for implementation of this Agreement (the “Management Entities”). The European Community designates the Commission of the European Communities (“Commission”) as its Management Entity. The United States of America designates the U.S. EPA as its Management Entity.

Article IV

Administration of the ENERGY STAR Labeling Program

Each Management Entity shall administer the ENERGY STAR Labeling Program for the energy-efficient product types listed in Annex C, subject to the terms and conditions set forth in this Agreement. Program administration includes registering Program Participants on a voluntary basis, maintaining Program Participant and compliant product lists, and enforcing the terms of the logo use guidelines set forth in Annex B.

2. The ENERGY STAR Labeling Program shall use the Specifications listed in Annex C.
3. Each Management Entity shall take effective measures to educate consumers about the ENERGY STAR marks, in accordance with the logo use guidelines set forth in Annex B. These measures may include informing consumers about the benefits of purchasing energy-efficient products that meet the Specifications, and undertaking marketing or educational efforts to stimulate market demand for labeled products.
4. Each Management Entity shall bear the expenses for all of its activities under this Agreement.

Article V

Participation in the ENERGY STAR Labeling Program

1. Any manufacturer, vendor or resale agent may enter the ENERGY STAR Labeling Program by registering as a Program Participant with the Management Entity of either Party.
2. Program Participants may use the International Logo to identify qualified products that have been tested in their own facilities or by an independent test

laboratory and that meet the Specifications set forth in Annex C, and may self-certify product qualification.

3. The registration of a Program Participant in the ENERGY STAR Labeling Program by the Management Entity of one Party shall be recognized by the Management Entity of the other Party.
4. To facilitate the recognition of Program Participants in the ENERGY STAR Labeling Program in accordance with Paragraph 3 above, the Management Entities shall cooperate in order to maintain common lists of all Program Participants and products that qualify for the International Logo.
5. Notwithstanding the self-certification procedures specified in Paragraph 2 above, each Management Entity reserves the right to test or otherwise review products that are or have been sold within its territories (in the territories of the European Community Member States in the case of the Commission) to determine whether the products are certified in accordance with the Specifications set forth in Annex C. The Management Entities shall communicate and cooperate fully with one another to ensure all products bearing the International Logo meet the Specifications set forth in Annex C.

Article VI

Program Coordination Between the Parties

1. The Parties shall establish a Technical Commission to review implementation of this Agreement, composed of representatives of their respective Management Entities.
2. The Technical Commission shall meet periodically to review the operation and administration of the ENERGY STAR Labeling Program, the Specifications set forth in Annex C, product coverage, consumer education efforts and the progress in achieving the objectives of this Agreement.
3. Nonparties (including other governments and industry representatives) may attend meetings of the Technical Commission as observers, unless otherwise agreed by both Management Entities.

Article VII

Registration of the ENERGY STAR Marks

1. The U.S. EPA, as owner of the ENERGY STAR marks, may seek to register the marks in the European Community. The Commission shall not seek or obtain any registration of the ENERGY STAR marks or any variation of the marks in any country.
2. If the U.S. EPA registers the marks in the European Community or any of its Member States, the U.S. EPA undertakes not to consider as an infringement of these marks the use, by the Commission or by any Program Participant registered by the Commission, of the sign or marking contained in Annex A in accordance with the terms of this Agreement.

Article VIII

Enforcement and Non-Compliance

1. In order to protect the ENERGY STAR marks, each Management Entity shall ensure the proper use of ENERGY STAR marks within its territory (within the territories of the European Community Member States in the case of the Commission). Each Management Entity shall ensure that the ENERGY STAR marks are used only in the form that appears in Annex A. Each Management Entity shall ensure that the ENERGY STAR marks are used solely in the manner specified in the logo use guidelines set forth in Annex B. To this end :
2. Each Management Entity shall ensure that prompt and appropriate action is taken against Program Participants, whenever it has knowledge that a Program Participant has used an infringing mark or has affixed the ENERGY STAR marks to a product that does not comply with the Specifications set forth in Annex C. Such actions shall include, but not be limited to:
 - (a) Informing the Program Participant in writing of its non-compliance with the terms of the ENERGY STAR Labeling program;
 - (b) Through consultations, developing a plan to reach compliance; and
 - (c) If compliance cannot be reached, terminating the registration of the Program Participant, as appropriate.
3. Each Management Entity shall ensure that all reasonable actions are taken to end the unauthorized use of the ENERGY STAR marks or use of an infringing mark by an entity that is not a Program Participant. Such actions shall include, but shall not be limited to:
 - (a) Informing the entity using the ENERGY STAR marks of ENERGY STAR Labeling Program requirements and proper logo use guidelines; and
 - (b) Encouraging the entity to become a Program Participant and register qualified products.
4. Each Management Entity shall immediately notify the Management Entity of the other Party of any infringement of the ENERGY STAR marks of which it has knowledge as well as the action taken to end such infringement.

Article IX

Procedures for Amending the Agreement and its Annexes A and B, and for Adding New Annexes

1. Either Management Entity may propose an amendment to this Agreement and to its Annexes A and B, and may propose new annexes to the Agreement.