DECISION OF THE EEA JOINT COMMITTEE

No 17/2009

of 5 February 2009

amending Annex XX (Environment) to the EEA Agreement

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area, as amended by the Protocol adjusting the Agreement on the European Economic Area, hereinafter referred to as 'the Agreement', and in particular Article 98 thereof,

Whereas:

(1) Annex XX to the Agreement was amended by Decision of the EEA Joint Committee No 122/2008 of 7 November 2008 [1].

(2) Directive 2004/35/EC of the European Parliament and of the Council of 21 April 2004 on environmental liability with regard to the prevention and remedying of environmental damage [2] is to be incorporated into the Agreement.

(3) Directive 2004/35/EC shall be read in accordance with the scope of the Agreement, taking particular account of the fact that nature conservation is outside the scope of the Agreement,

HAS DECIDED AS FOLLOWS:

Article 1

The following point shall be inserted after point 1h (Regulation (EC) No 166/2006 of the European Parliament and of the Council) of Annex XX to the Agreement:

'1i. **32004 L 0035**: Directive 2004/35/EC of the European Parliament and of the Council of 21 April 2004 on environmental liability with regard to the prevention and remedying of environmental damage (OJ L 143, 30.4.2004, p. 56).

The provisions of the Directive shall, for the purposes of this Agreement, be read with the following adaptations:

(a) Without prejudice to future development by the EEA Joint Committee, it should be noted that the following Community acts are not incorporated into the EEA Agreement:

(i) Council Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds (The Birds Directive);

(ii) Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (The Habitats Directive).

Therefore all references to these acts shall not apply to the EFTA States.

[1] OJ L 339, 18.12.2008, p. 114.
[2] OJ L 143, 30.4.2004, p. 56.

(b) Article 2(3) shall not apply to the EFTA States.

(c) With respect to the EFTA States, "protected species and natural habitats" shall mean:

Where an EFTA State so determines, any habitat or species or types of habitats or species which the EFTA State designates for equivalent purposes as those laid down in the two Directives referred to in Article 2(3).'

Article 2

The text of Directive 2004/35/EC in the Icelandic and Norwegian languages, to be published in the EEA Supplement to the *Official Journal of the European Union*, shall be authentic.

Article 3

This Decision shall enter into force on 6 February 2009, provided that all the notifications under Article 103(1) of the Agreement have been made to the EEA Joint Committee (*).

Article 4

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

Done at Brussels, 5 February 2009.

For the EEA Joint Committee
The President
Alan SEATTER

(*) Constitutional requirements indicated.