

**DECISION OF THE EEA JOINT COMMITTEE**  
**No 146/2005**  
**of 2 December 2005**  
**amending Annex IV (Energy) 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 IV to the Agreement was amended by Decision of the EEA Joint Committee No 102/2005 <sup>(1)</sup>.
- (2) Regulation (EC) No 1228/2003 of the European Parliament and of the Council of 26 June 2003 on conditions for access to the network for cross-border exchanges in electricity <sup>(2)</sup> is to be incorporated into the Agreement.
- (3) Directive 2003/54/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in electricity and repealing Directive 96/92/EC <sup>(3)</sup> is to be incorporated into the Agreement.
- (4) Directive 2003/55/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in natural gas and repealing Directive 98/30/EC <sup>(4)</sup>, as corrected by OJ L 16, 23.1.2004, p. 74, is to be incorporated into the Agreement.
- (5) Commission Decision 2003/796/EC of 11 November 2003 on establishing the European Regulators Group for Electricity and Gas <sup>(5)</sup> is to be incorporated into the Agreement.
- (6) Directive 2003/54/EC repeals Directive 90/547/EEC <sup>(6)</sup> and Directive 2003/55/EC repeals Directive 91/296/EEC <sup>(7)</sup>, which are incorporated into the Agreement and which are consequently to be repealed under the Agreement.
- (7) Decision 2003/796/EC repeals Decision 92/167/EEC <sup>(8)</sup>, which is the legal basis for present Appendix 4 of Annex IV to the Agreement and which is consequently to be repealed under the Agreement,

HAS DECIDED AS FOLLOWS:

*Article 1*

Annex IV of the Agreement shall be amended as follows:

1. the following shall be added in point 11h (Commission Directive 2002/31/EC):

‘, as amended by:

- **1 03 T**: Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded adopted on 16 April 2003 (OJ L 236, 23.9.2003, p. 33).;

<sup>(1)</sup> OJ L 306, 24.11.2005, p. 34.

<sup>(2)</sup> OJ L 176, 15.7.2003, p. 1. Regulation as amended by Council Regulation (EC) No 1223/2004 (OJ L 233, 2.7.2004, p. 3).

<sup>(3)</sup> OJ L 176, 15.7.2003, p. 37. Regulation as amended by Council Directive 2004/85/EC (OJ L 236, 7.7.2004, p. 10).

<sup>(4)</sup> OJ L 176, 15.7.2003, p. 57.

<sup>(5)</sup> OJ L 296, 14.11.2003, p. 34.

<sup>(6)</sup> OJ L 313, 13.11.1990, p. 30.

<sup>(7)</sup> OJ L 147, 12.6.1991, p. 37.

<sup>(8)</sup> OJ L 74, 20.3.1992, p. 43.

2. the following points shall be inserted after point 19 (Directive 2001/77/EC of the European Parliament and of the Council):

- ‘20. **32003 R 1228**: Regulation (EC) No 1228/2003 of the European Parliament and of the Council of 26 June 2003 on conditions for access to the network for cross-border exchanges in electricity (OJ L 176, 15.7.2003, p. 1).

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

- (a) the tasks in Article 12(2) shall for the EFTA States be carried out by the regulatory authorities of the EFTA States;
  - (b) the EFTA States concerned shall be invited to send observers to the meeting of the Committee established in Article 13. The representatives of the EFTA States shall participate fully in the work of the Committee, but shall not have the right to vote.
21. **32003 D 0796**: Commission Decision 2003/796/EC of 11 November 2003 on establishing the European Regulators Group for Electricity and Gas (OJ L 296, 14.11.2003, p. 34).
22. **32003 L 0054**: Directive 2003/54/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in electricity and repealing Directive 96/92/EC (OJ L 176, 15.7.2003, p. 37).

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

- (a) in Article 3(2), the words “provisions of the Treaty, in particular Article 86 thereof” shall read “provisions of the EEA Agreement and in particular Article 59 thereof”;
  - (b) in Article 3(8), the words “The interests of the Community” shall read “The interests of the Contracting Parties”;
  - (c) in Article 3(8), “Article 86 of the Treaty” shall read “Article 59 of the EEA Agreement”;
  - (d) in Article 10, the following shall be added at the end: “This provision shall not apply to Liechtenstein.”;
  - (e) in Article 23(8), the words “the provisions of the Treaty, in particular Article 82 thereof” shall read “the provisions of the EEA Agreement and in particular Article 54 thereof”;
  - (f) in Article 26(1), the following shall be added to the last sentence: “and Iceland”;
  - (g) Article 26(2) shall read as follows: “An EFTA State which, after the entry into force of Decision of the EEA Joint Committee No 146/2005 of 2 December 2005, for reasons of technical nature has substantial problems in opening its market for certain limited groups of the non-household customers referred to in Article 21(1)(b) may apply for a derogation from this provision, which may be granted to it by the EFTA Surveillance Authority for a period not exceeding 18 months after the entry into force of Decision of the EEA Joint Committee No 146/2005 of 2 December 2005.”;
  - (h) Iceland shall be considered as a small isolated system within the meaning of Article 2(26). The derogation set out in Article 15 shall therefore apply accordingly.
23. **32003 L 0055**: Directive 2003/55/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in natural gas and repealing Directive 98/30/EC (OJ L 176, 15.7.2003, p. 57), as corrected by OJ L 16, 23.1.2004, p. 74.

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

- (a) in Article 3(2), the words “provisions of the Treaty, in particular Article 86 thereof” shall read “provisions of the EEA Agreement and in particular Article 59 thereof”;

- (b) in Article 3(5), the words “The interests of the Community” shall read “The interests of the Contracting Parties”;
  - (c) in Article 3(5), “Article 86 of the Treaty” shall read “Article 59 of the EEA Agreement”;
  - (d) in Article 9, the following shall be added at the end: “This provision shall not apply to Liechtenstein.”;
  - (e) in Article 17(2), the following shall be added at the end of the first sentence: “, as referred to in, and adapted for the purposes of, the EEA Agreement.”;
  - (f) in Article 25(8), the words “the provisions of the Treaty”, in particular Article 82 thereof shall read “the provisions of the EEA Agreement and in particular Article 54 thereof”;
  - (g) Norway shall be considered as an emergent market from 10 April 2004 within the meaning of Article 2(31). The derogation set out in Article 28(2) shall therefore apply accordingly;
  - (h) the EFTA States concerned shall be invited to send observers to the meeting of the Committee established in Article 30. The representatives of the EFTA States shall participate fully in the work of the Committee, but shall not have the right to vote.;
3. the texts of points 8 (Council Directive 90/547/EEC), 9 (Council Directive 91/296/EEC), 14 (Directive 96/92/EC of the European Parliament and of the Council) and 16 (Directive 98/30/EC of the European Parliament and of the Council) shall be deleted;
4. the texts of Appendices 2, 3 and 4 shall be deleted.

#### Article 2

The texts of Regulation (EC) No 1228/2003, Directives 2003/54/EC and 2003/55/EC, as corrected by OJ L 16, 23.1.2004, p. 74, and Decision 2003/796/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 3 December 2005, 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, 2 December 2005.

For the EEA Joint Committee

The President

H.S.H. Prinz Nikolaus von LIECHTENSTEIN

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(\*) Constitutional requirements indicated.