



EUROPEAN COMMISSION

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2011/0165 (NLE)

Proposal for a

COUNCIL DECISION

**on the position to be taken by the European Union in the EEA Joint Committee
concerning an amendment to Annex XIII (Transport)**

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

In order to ensure the requisite legal security and homogeneity of the Internal Market, the EEA Joint Committee is to integrate all the relevant Community legislation into the EEA Agreement as soon as possible after its adoption.

2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENTS

The draft Decision of the EEA Joint Committee (annexed to the proposed Council Decision) aims to amend Annex XIII (Transport) by adding new Community acquis in this field. This concerns Regulation (EC) No 1008/2008 of the European Parliament and of the Council of 24 September 2008 on common rules for the operation of air services in the Community (Recast) which is to be incorporated into the Agreement. This decision aims to transpose the common rules on the operation of air services while allowing for EEA-wide licences to be granted by EFTA States under the condition that the respective third country agreement is approved by the EEA Joint Committee. This decision is also providing a 5 year time limit for public service obligations for regional airports in Iceland and the four northernmost counties in Norway the same way as the outermost regions referred to in Article 349 TFEU because these areas generally hold route areas that can be considered as equally peripheral to the outermost regions of the EU.

Council Regulation (EC) No 1008/2008 repeals Council Regulations (EEC) Numbers 2407/92, 2408/92 and 2409/92, which are incorporated into the Agreement and which are consequently to be repealed under the Agreement.

3. LEGAL ELEMENTS OF THE PROPOSAL

Article 1(3) of Council Regulation (EC) No 2894/94 concerning arrangements for implementing the EEA Agreement provides that the Council establishes the position to be adopted on the Union's behalf on such Decisions, on a proposal from the Commission.

The Commission submits the Draft Decision of the EEA Joint Committee for adoption by the Council as the Union's position. The Commission would hope to be able to present it in the EEA Joint Committee at the earliest possible opportunity.

Proposal for a

COUNCIL DECISION

on the position to be taken by the European Union in the EEA Joint Committee concerning an amendment to Annex XIII (Transport)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 100 (2) and 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,

Whereas:

- (1) Annex XIII to the Agreement on the European Economic Area, (hereinafter referred to as "the EEA Agreement") contains specific provisions and arrangements concerning transport.
- (2) It is appropriate to incorporate into the Agreement Regulation (EC) No 1008/2008 of the European Parliament and of the Council of 24 September 2008 on common rules for the operation of air services in the Community (Recast)². It is also appropriate to repeal Council Regulations (EEC) Numbers 2407/92³, 2408/92⁴ and 2409/92⁵, which are currently incorporated into the Agreement and have been repealed by Regulation (EC) No 1008/2008.
- (3) Annex XIII to the EEA Agreement should therefore be amended accordingly.

¹ OJ L 305, 30.11.1994, p. 6.

² OJ L 293, 31.10.2008, p. 3.

³ OJ L 240, 24.8.1992, p. 1.

⁴ OJ L 240, 24.8.1992, p. 8.

⁵ OJ L 240, 24.8.1992, p. 15.

HAS ADOPTED THIS DECISION:

Sole Article

The position to be taken by the Union in the EEA Joint Committee on an envisaged amendment to Annex XIII to the EEA Agreement is laid down in the Annex to this Decision.

Done at ...,

*For the Council
The President*

ANNEX

Draft

DECISION OF THE EEA JOINT COMMITTEE No of amending Annex XIII (Transport) 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 XIII to the Agreement was amended by Decision of the EEA Joint Committee No .../... of ...⁶.
- (2) Regulation (EC) No 1008/2008 of the European Parliament and of the Council of 24 September 2008 on common rules for the operation of air services in the Community (Recast)⁷ is to be incorporated into the Agreement.
- (3) Regulation (EC) No 1008/2008 repeals Regulations (EEC) Nos 2407/92⁸, 2408/92⁹ and 2409/92¹⁰, which are incorporated into the Agreement and which are consequently to be repealed under the Agreement,

HAS DECIDED AS FOLLOWS:

Article 1

Annex XIII to the Agreement shall be amended as follows:

1. The text of point 64a (Council Regulation (EEC) No 2408/92) shall be replaced by the following:

‘**32008 R 1008:** Regulation (EC) No 1008/2008 of the European Parliament and of the Council of 24 September 2008 on common rules for the operation of air services in the Community (Recast) (OJ L 293, 31.10.2008, p. 3).’

⁶ OJ L ...
⁷ OJ L 293, 31.10.2008, p. 3.
⁸ OJ L 240, 24.8.1992, p. 1.
⁹ OJ L 240, 24.8.1992, p. 8.
¹⁰ OJ L 240, 24.8.1992, p. 15.

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

- (a) In Article 4(f) the words “, except as provided for in an agreement with a third country to which the Community is a party;” shall be replaced by the following:

“. However, operating licenses with legal effects in the entire EEA can be granted on the basis of exceptions to this requirement provided for in agreements with third countries to which the Community or one or more EFTA States are parties, provided the EEA Joint Committee adopts a decision to that effect.”

- (b) The following shall be added at the end of Article 16(9), second subparagraph:

“, as well as regional airports in Iceland and the four northernmost counties in Norway.”

2. The text of points 65 (Council Regulation (EEC) No 2409/92) and 66b (Council Regulation (EEC) No 2407/92) shall be deleted.

Article 2

The texts of Regulation (EC) No 1008/2008 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 , 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, .

For the EEA Joint Committee

The President

*The Secretaries
to the EEA Joint Committee*

* [No constitutional requirements indicated.] [Constitutional requirements indicated.]