EUROPEAN COMMISSION

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2012/0116 (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 Protocol 31 to the EEA Agreement, on cooperation in specific fields outside the four freedoms

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 European Union legislation into the EEA Agreement as soon as possible after its adoption and also allow for the participation of the EEA EFTA States in EEA relevant EU actions, activities or programmes.

Art. 78 of the EEA Agreement provides that the Contracting Parties shall strengthen and broaden cooperation in the framework of the Union's activities in the fields of, inter alia, the environment.

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 Protocol 31 to the EEA Agreement, on cooperation in specific fields outside the four freedoms.

First of all, cooperation would be extended to include Regulation (EC) No 401/2009 of the European Parliament and of the Council of 23 April 2009 on the Environment Agency and the European Environment Information and Observation Network. Secondly, cooperation would be extended to the field of sport.

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.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 165 and 192(1) in conjunction with Article 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 Area[1], and in particular Article 1(3) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) Protocol 31 to the Agreement on the European Economic Area, (hereinafter referred to as "the EEA Agreement") contains provisions and arrangements concerning cooperation in specific fields outside the four freedoms.

(2) It is appropriate to extend the cooperation of the Contracting Parties to the Agreement to include Regulation (EC) No 401/2009 of the European Parliament and of the Council of 23 April 2009 on the Environment Agency and the European Environment Information and Observation Network[2].

(3) It is appropriate to extend the cooperation of the Contracting Parties to the Agreement to the field of sport.

(4) Regulation (EC) No 401/2009 repeals Council Regulation (EEC) No 1210/90[3] which is incorporated into the Agreement and which is consequently to be repealed under the Agreement.

(5) Protocol 31 to the Agreement should therefore be amended in order to allow for this extended cooperation to take place,

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1 OJ L 305, 30.11.1994, p. 6.
2 OJ L 126, 21.5.2009, p. 13.
3 OJ L 120, 11.5.1990, p. 1.

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken by the Union in the EEA Joint Committee on the proposed amendment to Protocol 31 to the EEA Agreement, on cooperation in specific fields outside the four freedoms shall be based on the draft Decision of the EEA Joint Committee attached to this Decision.

Article 2

This Decision shall enter into force on the day of its adoption.

Done at Brussels,

For the Council
The President

ANNEX

DECISION OF THE EEA JOINT COMMITTEE
No

of

amending Protocol 31 to the EEA Agreement,
on cooperation in specific fields outside the four freedoms

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 Articles 86 and 98 thereof,

Whereas:

(1) Protocol 31 to the Agreement was amended by Decision of the EEA Joint Committee No …/… of …[4].

(2) It is appropriate to extend the cooperation of the Contracting Parties to the Agreement to include Regulation (EC) No 401/2009 of the European Parliament and of the Council of 23 April 2009 on the Environment Agency and the European Environment Information and Observation Network[5].

(3) It is appropriate to extend the cooperation of the Contracting Parties to the Agreement to the field of sport.

(4) Regulation (EC) No 401/2009 repeals Council Regulation (EEC) No 1210/90[6] which is incorporated into the Agreement and which is consequently to be repealed under the Agreement.

(5) Protocol 31 to the Agreement should therefore be amended in order to allow for this extended cooperation to take place,

HAS ADOPTED THIS DECISION:

Article 1

Protocol 31 to the Agreement shall be amended as follows:

1. Paragraph 2 of Article 3 of Protocol 31 to the EEA Agreement shall be replaced by the following:

'(a) The EFTA States shall participate fully in the European Environment Agency, hereinafter referred to as the 'Agency', and the European Environment

[4] OJ L …
[5] OJ L 126, 21.5.2009, p. 13.
[6] OJ L 120, 11.5.1990, p. 1.

Information and observation network, as set up in Regulation (EC) No 401/2009 of the European Parliament and of the Council[7].

(b) The EFTA States shall contribute financially to the activities referred to under (a) in accordance with Article 82(1) and Protocol 32 of the Agreement.

(c) The EFTA States shall, in consequence of (b), participate fully, without the right to vote, in the Agency Management Board and shall be associated with the work of the scientific committee of the Agency.

(d) The term 'Member State(s)' and other terms referring to their public entities contained in Articles 4 and 5 of the Regulation shall be understood to include, in addition to its meaning in the Regulation, the EFTA States and their public entities.

(e) Environmental data supplied to or emanating from the Agency may be published and shall be made accessible to the public, provided that confidential information is afforded the same degree of protection in the EFTA States as it is afforded within the Community.

(f) The Agency shall have legal personality. It shall enjoy in all the states of the Contracting Parties the most extensive legal capacity accorded to legal persons under their laws.

(g) EFTA States shall apply to the Agency the Protocol of Privileges and Immunities of the European Communities.

(h) By way of derogation from Article 12 (2) (a) of the Conditions of employment of other servants of the European Communities, nationals of the EFTA States enjoying their full rights as citizens may be engaged under contract by the Executive Director of the Agency.

(i) By virtue of Article 79 (3), Part VII (Institutional Provisions) of the Agreement shall apply to this paragraph.

(j) Regulation (EC) No 1049/2001 of the European Parliament and the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents shall, for the application of Regulation (EC) No 401/2009, apply to any documents of the Agency regarding the EFTA States as well.

2. The heading of Article 4 (Education, training and youth) shall be replaced by the following:

'Education, training, youth and sport''

[7] OJ L 126, 21.5.2009, p. 13.

Article 2

This Decision shall enter into force on the day following the last notification to the EEA Joint Committee under Article 103(1) of the Agreement[*].

Article 3

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.]