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PROPOSAL

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	3 March 2017
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2017) 111 final
Subject:	Proposal for a COUNCIL DECISION on the position to be adopted, on behalf of the European Union, within the EEA Joint Committee concerning an amendment to Annex XX (Environment) to the EEA Agreement

Delegations will find attached document COM(2017) 111 final.

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2017/0047 (NLE)

Proposal for a

COUNCIL DECISION

**on the position to be adopted, on behalf of the European Union,
within the EEA Joint Committee concerning an amendment
to Annex XX (Environment) to the EEA Agreement**

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

- **Reasons for and objectives of the proposal**

The draft Decision of the EEA Joint Committee (annexed to the proposed Council Decision) aims to amend Annex XX (Environment) to the EEA Agreement in order to incorporate the Regulation (EU) No 510/2011 setting emission performance standards for new light commercial vehicles as part of the Union's integrated approach to reduce CO₂ emissions from light-duty vehicles¹ and related legislative acts into the EEA Agreement.

- **Consistency with existing policy provisions in the policy area**

The annexed draft Joint Committee Decision extends the already existing EU policy to the EEA EFTA States (Norway, Iceland and Liechtenstein).

- **Consistency with other Union policies**

The extension of the EU acquis in the EEA EFTA States, through their incorporation into the EEA Agreement is conducted in conformity with the objectives and principles of this Agreement aiming at establishing a dynamic and homogeneous European Economic Area, based on common rules and equal conditions of competition.

These efforts cover all policies in the area of the free movement of goods, persons, services and capital, as well as flanking and horizontal policies specified in the EEA Agreement.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

The legislation to be incorporated into the EEA Agreement is based on Article 192(1) of the Treaty on the Functioning of the European Union.

Article 1(3) of Council Regulation (EC) No 2894/94² 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 in cooperation with the EEAS 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.

- **Subsidiarity (for non-exclusive competence)**

The proposal complies with the subsidiarity principle for the following reason.

¹ OJ L 145, 31.5.2011, p. 1.

² OJ L 305, 30.11.1994, p. 6–8

The objective of this proposal, namely to ensure the homogeneity of the Internal Market cannot be sufficiently achieved by the Member States and can therefore, by reason of the effects, be better achieved at Union level.

The process of incorporation of the EU acquis into the EEA Agreement is conducted in conformity with the Council Regulation (EC) No 2894/94 of 28 November 1994 concerning arrangements for implementing the Agreement on the European Economic Area which confirms the approach taken.

- **Proportionality**

In accordance with the principle of proportionality, the proposal does not go beyond what is necessary in order to achieve its objective – to ensure the homogeneity of the Internal Market.

- **Choice of the instrument**

In conformity with Article 98 of the EEA Agreement, the chosen instrument is the EEA Joint Committee decision. The EEA Joint Committee shall ensure the effective implementation and operation of the EEA Agreement. To this end, it shall take decisions in the cases provided for in the EEA Agreement.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Collection and use of expertise**

In the framework of the preparation of the legislation in question the Commission organised a public internet consultation and two stakeholder meetings. In addition an external study investigating possible regulatory approaches to reducing CO₂ from light-duty vehicles was carried out.

- **Impact assessment**

In the framework of the preparation of the legislation in question the Commission has carried out a detailed impact assessment, analysing a wide range of various policy options.

The attached EEA Joint Committee Decision merely aims to extend the current system to the EEA EFTA States.

4. BUDGETARY IMPLICATIONS

There are no budgetary implications expected as a result of the incorporation into the EEA Agreement as any potential additional revenue due to vehicle registrations in EEA EFTA States would have to be transferred to the EFTA Surveillance Authority and vice versa.

5. OTHER ELEMENTS

Justification of the main requested adaptations and proposed solution

Regulation (EU) No 510/2011 establishes a system of emission performance standards for new light commercial vehicles. The draft JCD extends the EU system to the EEA EFTA States, so that the system will encompass all the EEA States except Liechtenstein.

Excess emissions premiums, Article 9(1) of Regulation (EU) No 510/2011 as reflected in adaptation (i) in the JCD

An adaptation text has been included to the effect that it will be for the EFTA Surveillance Authority to impose excess emissions premiums on manufacturers established in the EEA EFTA States.

Premiums will be imposed jointly for new light commercial vehicles sold in the EU and the EEA EFTA States respectively. Consequently, the premiums need to be distributed between the EU/EFTA sides.

A distribution key is therefore suggested, so that the premiums are distributed proportionally based on the share of new light commercial vehicles registered in the EU or in the EFTA States, respectively, relative to the total number of new light commercial vehicles registered in the EEA.

Collection of excess emissions premiums, Article 9(3) of Regulation (EU) No 510/2011 as reflected in adaptation (j) in the JCD

Article 9(3) provides a legal basis for the Commission to establish methods for the collection of excess emissions premiums. Such methods were established by Commission Decision 2012/99/EU³. As there is a separate surveillance authority and surveillance system under the EEA Agreement, an adaptation text has been included for the EFTA Surveillance Authority to determine the means for collecting excess emissions premiums. These means shall be based on the Commission's means.

Allocation of excess emissions premiums, Article 9(4) of Regulation (EU) No 510/2011 as reflected in adaptation (k) in the JCD

Article 9(4) states that the premiums shall be considered revenue for the general budget of the EU.

Consequently, an adaptation text has been included for the EFTA States to determine the allocation of the amounts of the excess emissions premium that correspond to the EFTA side.

Applicability of Regulation (EU) No 510/2011 to Liechtenstein as reflected in adaptation (o) in the JCD

The historically longstanding relationship between Liechtenstein and Switzerland is very close and heavily influenced by the Customs and Currency Treaty between the two countries (establishing a customs and currency union) which was concluded in 1923 (LGBI. 1923 No 24). The Customs and Currency Treaty with Switzerland also has a significant impact on the environmental and fiscal strategies of Liechtenstein. Many Swiss environmental provisions are, by way of the Customs and Currency Treaty, directly applicable in Liechtenstein or are implemented into Liechtenstein law on the basis of bilateral treaties between the two countries.

³ Commission Decision 2012/99/EU of 17 February 2012 on the detailed arrangements for the collection of premiums for excess CO₂ emissions from new light commercial vehicles pursuant to Regulation (EU) No 510/2011 of the European Parliament and of the Council Text, OJ L 47, 18.2.2012, p. 69.

Against this background, Liechtenstein requests to be exempted from the application of Regulation (EU) No 510/2011, considering that by applying the Swiss emission performance scheme in Liechtenstein the aims set by the EU legislation will equally be achieved.

Proposal for a

COUNCIL DECISION

**on the position to be adopted, on behalf of the European Union,
within the EEA Joint Committee concerning an amendment
to Annex XX (Environment) to the EEA Agreement**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 192(1) in conjunction with Article 218(9) thereof,

Having regard to Council Regulation (EC) No 2894/94 of 28 November 1994⁴ concerning arrangements for implementing the Agreement on the European Economic Area, and in particular Article 1(3) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Agreement on the European Economic Area ('the EEA Agreement') entered into force on 1 January 1994.
- (2) Pursuant to Article 98 of the EEA Agreement, the EEA Joint Committee may decide to amend, inter alia, Annex XX (Environment) to the EEA Agreement.
- (3) Regulation (EU) No 510/2011 of the European Parliament and of the Council⁵ is to be incorporated into the EEA Agreement.
- (4) Commission Delegated Regulation (EU) No 205/2012⁶ is to be incorporated into the EEA Agreement.
- (5) Commission Implementing Regulation (EU) No 293/2012⁷ is to be incorporated into the EEA Agreement.

⁴ OJ L 305, 30.11.1994, p. 6–8.

⁵ Regulation (EU) No 510/2011 of the European Parliament and of the Council of 11 May 2011 setting emission performance standards for new light commercial vehicles as part of the Union's integrated approach to reduce CO₂ emissions from light-duty vehicles, (OJ L 145, 31.5.2011, p. 1).

⁶ Commission Delegated Regulation (EU) No 205/2012 of 6 January 2012 amending Annex II to Regulation (EU) No 510/2011 of the European Parliament and of the Council with regard to the data source and the data parameters to be reported by Member States, (OJ L 72, 10.3.2012, p. 2).

⁷ Commission Implementing Regulation (EU) No 293/2012 of 3 April 2012 on monitoring and reporting of data on the registration of new light commercial vehicles pursuant to Regulation (EU) No 510/2011 of the European Parliament and of the Council, (OJ L 98, 4.4.2012, p. 1).

- (6) Commission Delegated Regulation (EU) No 114/2013⁸ is to be incorporated into the EEA Agreement.
- (7) Commission Delegated Regulation (EU) No 1047/2013⁹ is to be incorporated into the EEA Agreement.
- (8) Regulation (EU) No 253/2014 of the European Parliament and of the Council¹⁰ is to be incorporated into the EEA Agreement.
- (9) Commission Delegated Regulation (EU) No 404/2014¹¹ is to be incorporated into the EEA Agreement.
- (10) Commission Implementing Regulation (EU) No 410/2014¹² is to be incorporated into the EEA Agreement.
- (11) Commission Implementing Regulation (EU) No 427/2014¹³ is to be incorporated into the EEA Agreement.
- (12) Annex XX (Environment) to the EEA Agreement should therefore be amended accordingly.
- (13) The position of the Union within the EEA Joint Committee should therefore be based on the attached draft Decision,

HAS ADOPTED THIS DECISION:

Article 1

The position to be adopted, on behalf of the Union, within the EEA Joint Committee on the proposed amendment to Annex XX (Environment) to the EEA Agreement, shall be based on the draft decision of the EEA Joint Committee attached to this Decision.

⁸ Commission Delegated Regulation (EU) No 114/2013 of 6 November 2012 supplementing Regulation (EU) No 510/2011 of the European Parliament and of the Council with regard to rules for the application for a derogation from the specific CO₂ emissions targets for new light commercial vehicles, (OJ L 38, 9.2.2013, p. 1).

⁹ Commission Delegated Regulation (EU) No 1047/2013 of 21 August 2013 amending Commission Delegated Regulation (EU) No 114/2013 for the purpose of correcting the 2010 average specific CO₂ emissions specified for the manufacturer Piaggio, (OJ L 285, 29.10.2013, p. 1).

¹⁰ Regulation (EU) No 253/2014 of the European Parliament and of the Council of 26 February 2014 amending Regulation (EU) No 510/2011 to define the modalities for reaching the 2020 target to reduce CO₂ emissions from new light commercial vehicles, (OJ L 84, 20.3.2014, p. 38).

¹¹ Commission Delegated Regulation (EU) No 404/2014 of 17 February 2014 amending Annex II to Regulation (EU) No 510/2011 of the European Parliament and of the Council as regards the monitoring of CO₂ emissions from new light commercial vehicles type-approved in a multi-stage process, (OJ L 121, 24.4.2014, p. 1).

¹² Commission Implementing Regulation (EU) No 410/2014 of 23 April 2014 amending Implementing Regulation (EU) No 293/2012 as regards the monitoring of CO₂ emissions from new light commercial vehicles type-approved in a multi-stage process, (OJ L 121, 24.4.2014, p. 21).

¹³ Commission Implementing Regulation (EU) No 427/2014 of 25 April 2014 establishing a procedure for the approval and certification of innovative technologies for reducing CO₂ emissions from light commercial vehicles pursuant to Regulation (EU) No 510/2011 of the European Parliament and of the Council, (OJ L 125, 26.4.2014, p. 57).

Article 2

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

Done at Brussels,

*For the Council
The President*