



Council of the
European Union

135812/EU XXV. GP
Eingelangt am 08/03/17

Brussels, 8 March 2017
(OR. en)

7107/17

Interinstitutional File:
2017/0046 (NLE)

AELE 31
EEE 10
N 12
ISL 7
FL 9
MI 202
ENER 105

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) 110 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 IV (Energy) to the EEA Agreement (Third Energy Package)

Delegations will find attached document COM(2017) 110 final.

Encl.: COM(2017) 110 final

7107/17

AVI/mb

DGC 2A

EN



EUROPEAN
COMMISSION

Brussels, 3.3.2017
COM(2017) 110 final

2017/0046 (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 IV (Energy) to the EEA Agreement**

(Third Energy Package)

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 IV (Energy) to the EEA Agreement in order to incorporate the so called "Third Energy Package" into the Agreement on the European Economic Area (henceforth "the EEA Agreement"). The relevant legal acts are:

1. Regulation (EC) No 713/2009 of the European Parliament and of the Council of 13 July 2009 establishing an Agency for the Cooperation of Energy Regulators,
2. Regulation (EC) No 714/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the network for cross-border exchanges in electricity and repealing Regulation (EC) No 1228/2003,
3. Regulation (EC) No 715/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the natural gas transmission networks and repealing Regulation (EC) No 1775/2005,
4. Commission Regulation (EU) No 543/2013 of 14 June 2013 on submission and publication of data in electricity markets and amending Annex I to Regulation (EC) No 714/2009 of the European Parliament and of the Council,
5. Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC,
6. Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC,
7. Commission Decision 2010/685/EU of 10 November 2010 amending Chapter 3 of Annex I to Regulation (EC) No 715/2009 of the European Parliament and of the Council on conditions for access to the natural gas transmission networks,
8. Commission Decision 2012/490/EU of 24 August 2012 on amending Annex I to Regulation (EC) No 715/2009 of the European Parliament and of the Council on conditions for access to the natural gas transmission networks.

- **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 53(1), Article 62 and Article 114 of the Treaty on the Functioning of the European Union.

Article 1(3) of Council Regulation (EC) No 2894/94¹ 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.

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

¹ OJ L 305, 30.11.1994, p. 6–8

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 and impact assessment**

In the framework of the preparation of the Third Energy Package the Commission carried out an impact assessment to assess policy options related to the completion of the internal gas and electricity market. The impact assessment included a stakeholder consultation. A total of 339 questionnaires were filled out by organisations having their roots in 19 countries. In addition 73 questionnaires were received by organisations not connected to a particular country.

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

4. BUDGETARY IMPLICATIONS

The EEA EFTA States shall financially contribute to the functioning of the Agency for the Cooperation of Energy Regulators (ACER)². Their financial contribution will be in line with Article 82(1)(a) of the EEA Agreement, which stipulates that the EEA EFTA States contribute financially to EU activities in which they participate on the basis of a proportionality factor. The EEA EFTA States' contributions shall be added to the respective EU budget lines for the activities in question. It shall be stressed that the additional revenue in this context does not give additional staff resources for the Agency.

5. OTHER ELEMENTS

All essential provisions of the Third Energy Package with mutual rights and obligations are to be incorporated into the EEA Agreement. The EFTA side has asked for the following adaptations.

Participation in the Agency for the Cooperation of Energy Regulators (ACER)

The national regulatory authorities of the EFTA States shall participate fully in the work of the Agency, and all preparatory bodies, including working groups, committees and task forces of the Agency, the Administrative Board and the Board of Regulators without the right to vote.

Given that the national regulatory authorities of the EFTA States will not be granted voting rights in the Board of Regulators of the Agency, the EFTA States do not transfer competence to the Agency to adopt decisions. As the EFTA States cannot be subject to a decision by the Agency, an alternative mechanism is required. The EFTA Surveillance Authority should be given the authority to adopt decisions addressed to the national regulatory authorities of the EFTA States in cases involving one or more EFTA States.

² hereinafter referred to as 'the Agency'

The decisions of the EFTA Surveillance Authority shall be based on drafts prepared by the Agency. The EFTA Surveillance Authority and the Agency shall ensure that decisions on similar matters are consistent on the basis of joint cooperation and exchanges of views. Therefore, the Agency shall have the right to participate fully in the work of the EFTA Surveillance Authority, and vice versa.

The general principle of the mechanism is that the EFTA Surveillance Authority will issue binding decisions vis-à-vis the national regulatory authorities of the EFTA States in cases where the Agency has the authority to issue binding decisions in the EU. The mechanism will ensure a balanced solution.

As regards the EFTA States, the Agency shall, as and when appropriate, assist the EFTA Surveillance Authority or the Standing Committee, as the case may be, in the performance of their respective tasks.

When preparing a draft for the EFTA Surveillance Authority in accordance with this Regulation, the Agency shall inform the EFTA Surveillance Authority. The latter shall set a time limit within which the national regulatory authorities of the EFTA States shall be allowed to express their views on the matter, taking full account of the urgency, complexity and potential consequences of the matter.

National regulatory authorities of the EFTA States may request the EFTA Surveillance Authority to reconsider its decision. The EFTA Surveillance Authority shall forward this request to the Agency. In that case the Agency shall consider preparing a new draft for the EFTA Surveillance Authority and reply without undue delay.

Where the Agency amends, suspends or withdraws any decision parallel to the decision adopted by the EFTA Surveillance Authority, the Agency shall, without undue delay, prepare a draft to the same effect for the EFTA Surveillance Authority.

In case of disagreement between the Agency and the EFTA Surveillance Authority with regard to the administration of these provisions, the Director of the Agency and the College of the EFTA Surveillance Authority shall, taking into account the urgency of the matter, without undue delay convene a meeting to find consensus. Where such consensus is not found, the Director of the Agency or the College of the EFTA Surveillance Authority may request the Contracting Parties to refer the matter to the EEA Joint Committee which shall deal with it in accordance with Article 111 of this Agreement which shall apply *mutatis mutandis*. In accordance with Article 2 of Decision of the EEA Joint Committee No 1/94 of 8 February 1994 adopting the Rules of Procedure of the EEA Joint Committee (OJ L 85, 30.3.1994, p. 60), a Contracting Party may request immediate organisation of meetings in urgent circumstances. Notwithstanding this paragraph, a Contracting Party may at any time refer the matter to the EEA Joint Committee at its own initiative in accordance with Articles 5 or 111 of the EEA Agreement.

Example of justifications and proposed solutions in individual legal acts:

Directive 2009/72/EC

Article 44(2) – ‘small isolated systems’ and derogations

Justification:

Iceland: Iceland is currently considered as a small isolated system within the meaning of Article 2(26) of the previous electricity Directive (Directive 2003/54/EC). Therefore, the derogation provided for in Article 15 of that Directive applies to Iceland.

Iceland is still an isolated system within the meaning of the new electricity Directive (Directive 2009/72/EC), as it has no cross-border connections. The electricity consumption in Iceland is currently larger than what is considered for a small isolated system within the meaning of Article 2(26) of Directive 2009/72/EC. Current annual consumption is approximately 17 TWh while the threshold for small isolated systems is 3 TWh in the year 1996. However, the part of the system that serves households and smaller industry is still relatively small, as there are approximately 320 000 inhabitants in total and 124 000 households, which along with small industry, consume approximately 20% of the total electricity production. Therefore the system is composed of small distribution system operators with relatively few employees and a correspondingly small network operation, the same situation as under Directive 2003/54/EC. Therefore the consideration is still valid that in the case of substantial problems for the operation of such systems, after the Directive is brought into force, there should be an option for applying for derogation from the relevant provisions as allowed for Iceland under Directive 2003/54/EC. Therefore, the option of derogation from Articles 26, 32 and 33 and which has been granted to Malta, should also be granted to Iceland.

The transmission system operator in Iceland is currently legally and functionally unbundled in accordance with Directive 2003/54/EC. Under the current circumstances, ownership unbundling of the transmission system operator in Iceland would be problematic. Therefore, the derogation from Articles 9 of 2009/72/EC, which has been granted to Cyprus, Luxembourg and/or Malta, should also be granted to Iceland.

Liechtenstein: Liechtenstein currently has a derogation from the unbundling provisions in Article 10 of Directive 2003/54/EC. This is due to the specificities of Liechtenstein as a very small but highly industrialised country with approximately 36 000 inhabitants, 14 000 households, 33 000 workplaces, and also due to the special situation of the Liechtenstein electricity market.

Liechtenstein has one single electricity undertaking, LKW, which only has access to one 110kV-connection to Austria and three 110kV-connections to Switzerland. LKW serves approximately 18 300 final customers and acts as a typical distribution system operator within the meaning of Directive 2009/72/EC.

Under the current circumstances, unbundling of the transmission system operator in Liechtenstein would be disproportionate, especially taking into account Article 26(4) of Directive 2009/72/EC. According to this provision, an unbundling of distribution system operators does not have to be carried out if there are less than 100 000 customers connected or small isolated networks supplied. Therefore, Article 9 of Directive 2009/72/EC shall not apply to Liechtenstein.

Proposed adaptation text:

Article 44(2): “Article 44(2) shall be replaced by the following: ‘Article 9 shall not apply to Cyprus, Luxembourg, Malta, Liechtenstein and/or Iceland. In addition, Articles 26, 32 and 33 shall not apply to Malta.

If Iceland can demonstrate, after this Decision has entered into force, that there are substantial problems for the operation of its systems, Iceland may apply for

derogations from Articles 26, 32 and 33, which may be granted to it by the EFTA Surveillance Authority. The EFTA Surveillance Authority shall inform the EFTA States and the Commission of those applications before taking a decision, taking into account respect for confidentiality. That decision shall be published in the EEA Supplement to the Official Journal of the European Union.”

Article 7(2)(j) – EU renewable energy targets

Justification:

The 20% target referred to in this subparagraph is an EU target referred to in Directive 2009/28/EC on the promotion of the use of energy from renewable sources. Since the 20% target is an overall target for the EU Member States, Article 7(2)(j) should not apply to the EFTA States.

Proposed adaptation text:

“Article 7(2)(j) shall not apply to the EFTA States.”

Article 46 – participation in the Electricity Committee

Justification:

Currently in the EEA Agreement, there is an agreed adaptation text to the previous cross-border electricity Regulation (Regulation (EC) No 1228/2003), specifying that the EFTA States should be invited to participate fully in the work of the Electricity Committee, but should not have the right to vote. Since the Committee established under the Third Package will have a role equivalent to that of the previous Electricity Committee, the current adaptation text should be continued for the new Regulation.

Proposed adaptation text:

“The representatives of the EFTA States shall participate fully in the work of the Committee established by Article 46, but shall not have the right to vote.”

Directive 2009/73/EC

Derogation for Iceland

Justification:

There are no sources of natural gas in Iceland, and consequently it has no infrastructure in place for its distribution. The Commission therefore considers that the absence of natural gas in Iceland in combination with its geographical remoteness, which would make any construction of a pipeline too costly, form the "geographical reason" as defined in the relevant case law of the ECJ (Case C-214/98). Iceland may therefore be exempted from the obligation to transpose Directive 2009/73/EC into its legislation.

It should also be noted that non-incorporation of Directive 2009/73 into the EEA Agreement would in any event have no impact on Iceland since there is neither any gas market nor undertaking. The need for infrastructure investment, would not be economic to operate in a competitive market environment. Iceland is using its geothermal potential as an alternative and very affordable solution, there are therefore even no economic prospects for possible future gas market.

Proposed adaptation text:

“The Directive shall not apply to Iceland.”

Article 11 – Certification in relation to third countries

Justification:

The EFTA States' relations with third countries are not EEA relevant. This is specified in recital 16 to the EEA Agreement, which states that “*this Agreement does not restrict the decision-making autonomy or the treaty-making power of the Contracting Parties, subject to the provisions of this Agreement and the limitations set by public international law*”. Neither can an international agreement concluded by the EU bind the EFTA States.

According to Article 11(3)(b), EU Member States shall refuse certification of third country operators if it has not been demonstrated that granting certification will not put at risk the security of energy supply of the Member State and the Community. The elements to be considered are related to rights and obligations arising from international agreements of the EU and the EU Member States, as well as other specific circumstances related to the third country. As the EEA Agreement does not regulate third country relations, international agreements of the EU, the EU Member States or the EFTA States, or other relations of these States with third countries, are not EEA relevant. An adaptation text, excluding the security of energy supply provision from being taken into account under the EEA Agreement, is therefore needed.

However, the unbundling requirement could be considered a basic requirement of the internal energy market. In order to ensure the good functioning of the EEA Agreement, this requirement should also be applied to third country operators requesting to be certified by an EFTA State. Importantly, however, the requirement will not apply to third country operators in geographically limited areas that have been specified in the adaptation to Article 49(4) and 49(5) of Directive 2009/73/EC before the time limits specified have expired.³

As part of the procedures set out in Article 11, Member States shall request the opinion of the Commission as to whether the unbundling requirements are complied with and whether the security of supply to the Community is put at risk when granting certification. According to paragraph 4(d) of Protocol 1 to the EEA Agreement, functions of the Commission in the context of procedures for verification or approval, information, notification or consultation and similar matters shall, for the EFTA States, be carried out according to procedures established among them. In the energy field, the EFTA Surveillance Authority is tasked with implementing the procedures provided for by EU law.

As an adaptation text excluding the security of energy supply provision in Article 11(3)(b) from being taken into account under the EEA Agreement is foreseen, this criterion cannot be considered by the EFTA Surveillance Authority when delivering its opinion to the EFTA States. An adaptation text is therefore also proposed to this extent.

Proposed adaptation text:

Articles 11(3)(b), 11(5)(b) and 11(7) shall not apply to the EFTA States.

Articles 49(2), 49(4), 49(5) and 49(6) – Emergent and isolated markets

Justification:

³ Please see page 16 of this Explanatory Note for further explanations concerning Article 49.

Norway: The first point of the suggested adaptation clarifies that in relation to the EFTA States, the EFTA Surveillance Authority will carry out the task of the Commission.

The second point of the suggested adaptation contains a specific adaptation for existing infrastructure in Norway. This adaptation is a reflection of the fact that Norway was classified an “emergent market” according to Directive 2003/55 until April 2014. Although Norway does not hold this status any longer, the Norwegian domestic market for natural gas is small and still in an emerging phase. Development of infrastructure for natural gas has only taken place in a few geographically limited areas, which are not interconnected.

For two geographically limited areas, an exemption in accordance with Article 49(4) and (5) is requested. In the two areas, investments in infrastructure were made during Norway’s status as an emergent market and, hence, application for derogations was not applied. Furthermore, new investments and market growth is still being explored in the two areas. Full implementation of the Directive would therefore cause substantial problems by weakening the incentives for further investments in new gas infrastructure. The adaptations will ensure predictable and stable framework conditions for new investments in gas infrastructure. The age of the infrastructure in these two areas is well within the time limits for derogation specified in Article 49(5).

In the two geographically limited areas, exemptions from the provisions related to distribution are considered necessary. A derogation from Article 32 is proposed as full third party access would impair the incentives for investments in further development of the infrastructure. Due to the emerging state of the market, hereunder the limited size and age of the infrastructure in question, and the disproportionate burden of imposing rules connected to a DSO, an exemption from the obligation to designate a DSO pursuant to Article 24 is proposed, also taking into account that the DSO in question in accordance with the proposal would operate in a system without third party access. As a consequence of the derogation from Article 24, the obligations following from Articles 25, 26 and 27 will not apply. As a consequence of the derogation from Article 32, a derogation from Article 31 is proposed.

The geographical areas where derogations are needed are listed in the adaptation text. The temporary derogations for the listed areas cover both existing and future projects in the areas up to 20 years from when gas was first supplied through the infrastructure in the area. The need for derogations will be examined by the Norwegian National Regulatory Authority every five years and Norway will inform the EEA Joint Committee and the EFTA Surveillance Authority of the outcome of the revision. Within a period of two months the EFTA Surveillance Authority may adopt a decision requiring the Norwegian Regulatory Authority to amend or withdraw its decision. The Norwegian Regulatory Authority shall comply with the EFTA Surveillance Authority's decision within a period of one month and shall inform the EEA Joint Committee and the EFTA Surveillance Authority accordingly

Description of the two geographically limited areas in Norway:

Hordaland: In Hordaland, natural gas is available for domestic use at the upstream processing plant at Kollsnes. During Norway's status as an emergent market according to Directive 2003/55, infrastructure connected to this access point was developed by the natural gas undertaking Gasnor which is also the current operator. A few industrial customers are connected and use natural gas for their operations.

Jæren and Ryfylke: In Jæren and Ryfylke, the natural gas undertaking Lyse Neo has developed a distribution network which consists of 620 km of pipelines with approximately 1700 customers connected. The network is supplied by gas from the upstream processing plant at Kårstø and serves mainly industrial customers and some users in the service sector. The distribution network was developed during Norway's phase as an emergent market according to Directive 2003/55. Lyse Neo is the operator of the network.

Liechtenstein: Liechtenstein currently has a derogation from the unbundling provisions in Article 9 of Directive 2003/55/EC. This is due to the specificities of Liechtenstein as a very small, but highly industrialised country with approximately 36 000 inhabitants, 14 000 households and 33 000 workplaces, and also due to the special situation of the Liechtenstein gas market.

Liechtenstein has one single gas undertaking, LGV, which only has access to one 26 km long high pressure main (designed for 70 bar). Starting from this pipeline and using the local pipeline networks, LGV serves approximately 4 045 final customers. The activity of LGV is restricted to the trade of gas and to the construction of network of mains since Liechtenstein has no natural gas resources itself.

Under the current circumstances, unbundling of the transmission system operator in Liechtenstein would be disproportionate, especially taking into account Article 26(4) of Directive 2009/73/EC. According to this provision, an unbundling of distribution system operators does not have to be carried out if there are less than 100 000 customers connected. Therefore, Article 9 of Directive 2009/73/EC shall not apply to Liechtenstein.

Proposed adaptation text:

“In Article 49(4) and (5), the word ‘Commission’ shall, for the EFTA States, be read as ‘EFTA Surveillance Authority’.”

Article 49(5): “The following shall be added to Article 49(5):

‘The following geographically limited areas in Norway shall be exempt from Articles 24, 31 and 32 for a maximum of 20 years after the entry into force of the Decision of the EEA Joint Committee No [this Decision] of [date]:

- (i) Jæren and Ryfylke,
- (ii) Hordaland.

The need for continued derogation shall be decided by the Norwegian Regulatory Authority every five years after the entry into force of the Decision of the EEA Joint Committee No [this Decision] of [date] taking into account the criteria of this Article. The Norwegian Regulatory Authority shall notify the EEA Joint Committee and the EFTA Surveillance Authority of its decision and the assessment it is based upon. Within a period of two months from the day following the receipt of the decision, the EFTA Surveillance Authority may adopt a decision requiring the Norwegian Regulatory Authority to amend or withdraw its decision. This period may be extended with the consent of both the EFTA Surveillance Authority and the Norwegian Regulatory Authority. The Norwegian Regulatory Authority shall comply with the EFTA Surveillance Authority's decision within a period of one month and shall inform the EEA Joint Committee and the EFTA Surveillance Authority accordingly.”

Article 49(6): “Article 49(6) shall be replaced by the following: ‘Article 9 shall not apply to Cyprus, Luxembourg, Malta and/or Liechtenstein.’”

Article 51 – participation in the Gas Committee

Justification:

Currently in the EEA Agreement, there is an agreed adaptation text to the previous cross-border gas Regulation (Regulation (EC) No 1775/2005), specifying that the EFTA States should be invited to participate fully in the work of the Gas Committee, but should not have the right to vote. Since the Committee established under the Third Package will have a role equivalent to that of the previous Gas Committee, the current adaptation text should be continued for the new Regulation.

Proposed adaptation text:

“The representatives of the EFTA States shall participate fully in the work of the Committee established by Article 51, but shall not have the right to vote.”

Regulation (EC) No 715/2009

Derogation for Iceland

Justification:

There are no sources of natural gas in Iceland, and consequently it has no infrastructure in place for its distribution. The Commission therefore considers that the absence of natural gas in Iceland in combination with its geographical remoteness, which would make any construction of a pipeline too costly, form the "geographical reason" as defined in the relevant case law of the ECJ (Case C-214/98). Iceland may therefore be exempted from the obligation to transpose Regulation (EC) No 715/2009 into its legislation.

Proposed adaptation text:

“The Regulation shall not apply to Iceland.”

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 IV (Energy) to the EEA Agreement**

(Third Energy Package)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 53(1), 62 and 114 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 IV (Energy) to the EEA Agreement.
- (3) Regulation (EC) No 713/2009 of the European Parliament and of the Council⁵ is to be incorporated into the EEA Agreement.
- (4) Regulation (EC) No 714/2009 of the European Parliament and of the Council⁶ is to be incorporated into the EEA Agreement.
- (5) Regulation (EC) No 715/2009 of the European Parliament and of the Council⁷ is to be incorporated into the EEA Agreement.

⁴ OJ L 305, 30.11.1994, p. 6–8.

⁵ Regulation (EC) No 713/2009 of the European Parliament and of the Council of 13 July 2009 establishing an Agency for the Cooperation of Energy Regulators, (OJ L 211, 14.8.2009, p. 1).

⁶ Regulation (EC) No 714/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the network for cross-border exchanges in electricity and repealing Regulation (EC) No 1228/2003, (OJ L 211, 14.8.2009, p. 15).

- (6) Commission Regulation (EU) No 543/2013⁸ is to be incorporated into the EEA Agreement.
- (7) Directive 2009/72/EC of the European Parliament and of the Council⁹ is to be incorporated into the EEA Agreement.
- (8) Directive 2009/73/EC of the European Parliament and of the Council¹⁰ is to be incorporated into the EEA Agreement.
- (9) Commission Decision 2010/685/EU¹¹ is to be incorporated into the EEA Agreement.
- (10) Commission Decision 2012/490/EU¹² is to be incorporated into the EEA Agreement.
- (11) Regulation (EC) No 714/2009 repeals Regulation (EC) No 1228/2003 of the European Parliament and of the Council¹³ which is incorporated into the Agreement and which is consequently to be repealed under the EEA Agreement.
- (12) Regulation (EC) No 715/2009 repeals Regulation (EC) No 1775/2005 of the European Parliament and of the Council¹⁴ which is incorporated into the Agreement and which is consequently to be repealed under the EEA Agreement.
- (13) Directive 2009/72/EC repeals Directive 2003/54/EC of the European Parliament and of the Council¹⁵ which is incorporated into the EEA Agreement and which is consequently to be repealed under the EEA Agreement.
- (14) Directive 2009/73/EC repeals Directive 2003/55/EC of the European Parliament and of the Council¹⁶ which is incorporated into the EEA Agreement and which is consequently to be repealed under the EEA Agreement.

⁷ Regulation (EC) No 715/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the natural gas transmission networks and repealing Regulation (EC) No 1775/2005, (OJ L 211, 14.8.2009, p. 36 as corrected by OJ L 229, 1.9.2009, p. 29 and OJ L 309, 24.11.2009, p. 87).

⁸ Commission Regulation (EU) No 543/2013 of 14 June 2013 on submission and publication of data in electricity markets and amending Annex I to Regulation (EC) No 714/2009 of the European Parliament and of the Council, (OJ L 163, 15.6.2013, p. 1).

⁹ Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC, (OJ L 211, 14.8.2009, p. 55).

¹⁰ Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC, (OJ L 211, 14.8.2009, p. 94).

¹¹ Commission Decision 2010/685/EU of 10 November 2010 amending Chapter 3 of Annex I to Regulation (EC) No 715/2009 of the European Parliament and of the Council on conditions for access to the natural gas transmission networks, (OJ L 293, 11.11.2010, p. 67).

¹² Commission Decision 2012/490/EU of 24 August 2012 on amending Annex I to Regulation (EC) No 715/2009 of the European Parliament and of the Council on conditions for access to the natural gas transmission networks, (OJ L 231, 28.8.2012, p. 16).

¹³ 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).

¹⁴ Regulation (EC) No 1775/2005 of the European Parliament and of the Council of 28 September 2005 on conditions for access to the natural gas transmission networks, (OJ L 289, 3.11.2005, p. 1).

¹⁵ 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 - Statements made with regard to decommissioning and waste management activities, (OJ L 176, 15.7.2003, p. 37).

- (15) Commission Decision 2011/280/EU¹⁷ repeals Commission Decision 2003/796/EC¹⁸ which is incorporated into the EEA Agreement and which is consequently to be repealed under the EEA Agreement.
- (16) Annex IV (Energy) to the EEA Agreement should therefore be amended accordingly.
- (17) 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 IV (Energy) to the EEA Agreement, 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 date of its adoption.

Done at Brussels,

*For the Council
The President*

¹⁶ 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).

¹⁷ Commission Decision of 16 May 2011 on repealing Decision 2003/796/EC on establishing the European Regulators Group for Electricity and Gas, (OJ L 129, 17.5.2011, p. 14).

¹⁸ Commission Decision of 11 November 2003 on establishing the European Regulators Group for Electricity and Gas, (OJ L 296, 14.11.2003, p. 34).