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PROPOSAL

From: Secretary-General of the European Commission,
signed by Mr Jordi AYET PUIGARNAU, Director

date of receipt: 29 March 2017

To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of
the European Union

No. Cion doc.: COM(2017) 153 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 Protocol 3 to the EEA Agreement, concerning products
referred to in Article 8(3)(b) of the Agreement

Delegations will find attached document COM(2017) 153 final.

Encl.: COM(2017) 153 final



Brussels, 29.3.2017
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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 Protocol 3 to the EEA
Agreement, concerning products referred to in Article 8(3)(b) of the 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 Protocol 3 to the Agreement on the European Economic Area (EEA Agreement), which determines the trade arrangements for certain categories of processed agricultural products between the European Union, on the one hand, and the EEA countries (Norway, Iceland, Liechtenstein), on the other.

Iceland and the European Union represented by the European Commission have agreed to eliminate tariffs for certain products listed in this Protocol. These concessions will apply only to products originating respectively in the European Union and in Iceland.

It should be noted that the EEA Agreement only refers to the EEA origin. In order to ensure that the new concessions will only apply bilaterally between the EU and Iceland, this amendment to Protocol 3 inserts a reference to the EU and Icelandic origin in the meaning of the Regional Convention on pan-Euro-Mediterranean preferential rules of origin.

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

The draft Decision contributes to further liberalising and promoting trade between the European Union and Iceland. This is fully in line with the EU's objective to improve market access for EU products in third countries.

The bilateral trade concessions are incorporated in Protocol 2 to the Agreement between the European Economic Community and the Republic of Iceland signed on 22 July 1972 (the bilateral free trade agreement). However, for virtually all products listed in that old bilateral Protocol with Iceland, Protocol 3 to the EEA agreement already grants a more favourable tariff treatment and, pursuant to Article 120 EEA, the EEA agreement shall prevail over provisions in the bilateral agreement. Moreover, the draft Decision is in line with the overall objective of the bilateral free trade agreement to “eliminate progressively the obstacles to substantially all their trade”.

- **Consistency with other Union policies**

Gradual liberalisation of trade in processed agricultural products between the European Union, on the one hand, and the EEA countries (Norway, Iceland, Liechtenstein), on the other is fully in line with the objectives of the EEA Agreement aiming at establishing a dynamic and homogeneous European Economic Area, based on common rules and equal conditions of competition.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

Article 2(2) of Protocol 3 to the EEA Agreement stipulates that the customs duties set out in the Annexes to Table I of Protocol 3 to the EEA Agreement can be adapted by the EEA Joint Committee taking account of mutual concessions.

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 concerns the common trade policy for which, pursuant to Article 3 TFEU, the EU has exclusive competence.

The process of amending provisions of Protocol 3 to 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.

- **Proportionality**

In accordance with the principle of proportionality, the proposal does not go beyond what is necessary in order to achieve its objective – to establish a dynamic and homogeneous European Economic Area, based on common rules and equal conditions of competition.

- **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. BUDGETARY IMPLICATIONS

The proposal will eliminate import duties levied upon import of most processed agricultural products from Iceland into the EU. The impact on EU revenue is expected to amount to EUR – 0.5 million per year.

4. OTHER ELEMENTS

The draft Decision of the EEA Joint Committee attached to the draft Council Decision shall enter into force as soon as all the notifications under Article 103(1) of the EEA Agreement have been made, or on the same day as the entry into force of the Agreement in the form of an Exchange of Letters between the European Union and Iceland concerning additional trade preferences in agricultural products, whichever is the later. This Agreement was negotiated by the Directorate General for Agriculture of the European Commission in line with Article 19 of the EEA Agreement.

¹ OJ L 305, 30.11.1994, p. 6–8

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**on the position to be adopted, on behalf of the European Union,
within the EEA Joint Committee concerning an amendment to Protocol 3 to the EEA
Agreement, concerning products referred to in Article 8(3)(b) of the Agreement**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 in conjunction with Article 218(9) thereof,

Having regard to Council Regulation (EC) No 2894/94 of 28 November 1994² 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, Protocol 3 concerning products referred to in Article 8(3)(b) of the EEA Agreement, determining specific trade arrangements for certain agricultural and processed agricultural products between the Contracting Parties.
- (3) Article 2(2) of Protocol 3 to the EEA Agreement stipulates that the customs duties set out in the Annexes to Table I of Protocol 3 to the EEA Agreement can be adapted by the EEA Joint Committee taking account of mutual concessions. Iceland and the European Union have agreed to eliminate tariffs for certain products listed in Protocol 3 to the EEA Agreement. These concessions will apply only to products originating respectively in the European Union and in Iceland, in the meaning of the Regional Convention on pan-Euro-Mediterranean preferential rules of origin.
- (4) Protocol 3 to the EEA Agreement should therefore be amended accordingly.
- (5) 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 Protocol 3 to the EEA Agreement, shall be based on the draft decision of the EEA Joint Committee attached to this Decision.

² OJ L 305, 30.11.1994, p. 6–8.

Article 2

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

Done at Brussels,

*For the Council
The President*

**LEGISLATIVE FINANCIAL STATEMENT FOR PROPOSALS HAVING A
BUDGETARY IMPACT EXCLUSIVELY LIMITED TO THE REVENUE SIDE**

1. NAME OF THE PROPOSAL

Decision of the EEA Joint Committee amending Protocol 3 to the EEA Agreement, concerning products referred to in Article 8(3)(b) of the Agreement

2. BUDGET LINES

Chapter and Article : 1 2 0 Customs duties and other duties referred to in Article 2(1)(a) of Decision 2007/436/EC, Euratom

Amount budgeted under chapter 1 2 0 : EUR 20 000.5 million (DB 2017)

3. FINANCIAL IMPACT

Proposal has no financial impact on expenditure but has a financial impact on revenue – the effect is as follows³:

(€million to one decimal place)

Budget line	Revenue	2017	2018
Article 1 2 0	<i>Impact on own resources</i>	- 0.5	- 0.5

Situation following action					
	2019	2020	2021	2022	2023
Article 1 2 0	- 0.5	- 0.5	- 0.5	- 0.5	- 0.5

4. ANTI-FRAUD MEASURES

Provisions on import duties include the measures necessary for preventing fraud and irregularities (application of the controls provided in the Community Customs Code and its implementing provisions).

³ The amounts per year are based on the methodology presented in section 5. For the purpose of this fiche, it is assumed that the measure would enter into force on 1 January 2017.

5. OTHER REMARKS

The impact in section 3 corresponds to an estimate of the amount of customs duties actually levied in the period 2013-2015, after deduction of 20% collection costs. The estimate for customs duties is based on COMEXT trade data on imports registered under MFN and preferential treatments already in place and on the tariff applicable in those respective cases in 2016. Where complex compound duties apply, ad-valorem equivalents have been used.