



Council of the
European Union

Brussels, 17 October 2017
(OR. en)

12934/17

Interinstitutional File:
2017/0253 (NLE)

AELE 65
EEE 36
N 34
MAP 21
MI 677
COMPET 644
IND 236
CSDP/PSDC 526
POLARM 12
CFSP/PESC 849

LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: COUNCIL DECISION on the position to be adopted, on behalf of the European Union, within the EEA Joint Committee concerning an amendment to Protocol 31 to the EEA Agreement, on cooperation in specific fields outside the four freedoms (The Union's preparatory action on defence research)

COUNCIL DECISION (EU) 2017/...

of ...

**on the position to be adopted, on behalf of the European Union,
within the EEA Joint Committee
concerning an amendment to Protocol 31 to the EEA Agreement,
on cooperation in specific fields outside the four freedoms
(The Union's preparatory action on defence research)**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular 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 Area¹, and in particular Article 1(3) thereof,

¹ OJ L 305, 30.11.1994, p. 6.

Having regard to Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002¹, and in particular Articles 54(2)(b), 84(2) and Article 124 thereof,

Having regard to the proposal from the European Commission,

¹ OJ L 298, 26.10.2012, p. 1.

Whereas:

- (1) The Agreement on the European Economic Area¹ ('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 31 to the EEA Agreement.
- (3) Protocol 31 to the EEA Agreement contains provisions on cooperation in specific fields outside the four freedoms.
- (4) It is appropriate to extend the cooperation of the Contracting Parties to the EEA Agreement to include the participation of the EFTA States in the Union's preparatory action on defence research which is funded from the general budget of the European Union.
- (5) It is appropriate that the participation of the EFTA States in the activities financed from budget line 02 04 77 03 commence from 11 April 2017 even if the attached decision of the EEA Joint Committee is adopted, or if the fulfilment of constitutional requirements for that decision, if any, is notified, after 10 July 2017.

¹ OJ L 1, 3.1.1994, p. 3.

- (6) Institutions, undertakings, organizations and nationals of the EFTA States should be entitled to participate in activities which start before the entry into force of this Decision. The costs incurred for their participation in such activities, the implementation of which starts after 11 April 2017, should be considered eligible under the same conditions as those applicable to costs incurred by institutions, undertakings, organizations and nationals of the EU Member States, provided that the attached decision of the EEA Joint Committee has entered into force before the end of the preparatory action concerned.
- (7) Protocol 31 to the EEA Agreement should therefore be amended in order to allow for that extended cooperation to take place from 11 April 2017.
- (8) The position of the Union within the EEA Joint Committee should be based on the attached draft decision,

HAS ADOPTED THIS DECISION:

Article 1

The position to be adopted, on the Union's behalf, within 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 date of its adoption.

Done at Brussels,

For the Council
The President

DRAFT

DECISION OF THE EEA JOINT COMMITTEE No .../2017

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 (“the EEA Agreement”), and in particular Articles 86 and 98 thereof,

Whereas:

- (1) It is appropriate to extend the cooperation of the Contracting Parties to the EEA Agreement to include the participation of the EFTA States in the Union's preparatory action on defence research which is funded from the general budget of the European Union.
- (2) It is appropriate that the participation of the EFTA States in the activities financed from budget line 02 04 77 03 commence from 11 April 2017 even if this Decision is adopted, or if the fulfilment of constitutional requirements for this Decision, if any, is notified, after 10 July 2017.
- (3) Institutions, undertakings, organizations and nationals of the EFTA States should be entitled to participate in activities which start before the entry into force of this Decision. The costs incurred for their participation in such activities, the implementation of which starts after 11 April 2017, should be considered eligible under the same conditions as those applicable to costs incurred by institutions, undertakings, organizations and nationals of the EU Member States, provided that this Decision has entered into force before the end of the preparatory action concerned.
- (4) Protocol 31 to the EEA Agreement should therefore be amended in order to allow for this extended cooperation to take place from 11 April 2017,

HAS ADOPTED THIS DECISION:

Article 1

The following paragraph is added in Article 1 of Protocol 31 to the EEA Agreement:

- ‘13. (a) The EFTA States shall, as from 11 April 2017, participate in Union activities related to the following budget line, entered into the general budget of the European Union for the financial year 2017:
- **Budget line 02 04 77 03:** “Preparatory action on defence research”.
- (b) The EFTA States shall contribute financially to the activities referred to in point (a) in accordance with Article 82(1)(a) of the Agreement.
- (c) The costs incurred by institutions, undertakings, organizations and nationals of the EFTA States for their participation in the activities referred to in point (a), the implementation of which starts after 11 April 2017, shall be considered eligible as from the beginning of the action under the same conditions as those applicable to costs incurred by institutions, undertakings, organizations and nationals of the EU Member States and pursuant to the relevant grant agreement or grant decision, provided that Decision of the EEA Joint Committee No .../2017 of ... [this Decision] has entered into force before the end of the preparatory action.
- (d) Iceland and Liechtenstein shall not participate in that preparatory action, and shall not financially contribute to the activities referred to in point (a).’.

Article 2

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

It shall apply from 11 April 2017.

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.]

ANNEX

Declaration by the EFTA States
to Decision No .../2017 amending Protocol 31 to the EEA Agreement
to extend the cooperation of the Contracting Parties
to include the participation of the EFTA States
in the Union's preparatory action on defence research

This Decision extends the cooperation of the Contracting Parties to include the participation of the EFTA States in the Union's preparatory action on defence research. The EFTA States consider that defence matters fall outside the scope of the EEA Agreement, and therefore that the adoption of this Decision does not extend the scope of the EEA Agreement to include defence matters beyond the participation of the EFTA States in that preparatory action. The EFTA States also stress that Iceland and Liechtenstein shall not participate in, and shall not financially contribute to, this preparatory action.
