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PROPOSAL

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

date of receipt: 4 December 2017

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

No. Cion doc.: COM(2017) 726 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) 726 final.

Encl.: COM(2017) 726 final



Brussels, 4.12.2017
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2017/0321 (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 Directive (EU) 2016/802 of the European Parliament and of the Council of 11 May 2016 relating to a reduction in the sulphur content of certain liquid fuels¹.

- 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 to the EEA EFTA States, through their incorporation into the EEA Agreement is conducted in conformity with the objectives and principles of that 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

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 EEAS in cooperation with the Commission submits the draft Decision of the EEA Joint Committee for adoption by the Council as the Union's position. The EEAS 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.

¹ OJ L 132, 21.5.2016, p. 58.

² OJ L 305, 30.11.1994, p. 6–8

- Proportionality

In accordance with the principle of proportionality, this proposal does not go beyond what is necessary in order to achieve its objective.

- 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

Not applicable

- Impact assessment

Not applicable

4. BUDGETARY IMPLICATIONS

There are no budgetary implications expected as a result of the incorporation of Directive (EU) 2016/802 into the EEA Agreement.

5. OTHER ELEMENTS

The main adaptations requested by the EFTA side

Relevant provision

Article 2(n)

Justification

Iceland was classified as an outermost region under Council Directive 1999/32/EC³ upon its incorporation into the EEA Agreement (see, Decisions of the EEA Joint Committee No 90/2001⁴ and No 49/2006⁵). Whereas Directive (EU) 2016/802 replaces Directive 1999/32/EC but retains exemptions for EU outermost regions, the adaptation regarding Iceland's status should also be carried over under the new Directive. Therefore, an adaptation provides that Iceland is included in the definition of 'outermost territory' for the purposes of Directive (EU) 2016/802.

³ OJ L 121, 11.5.1999, p. 13.

⁴ OJ L 251, 20.9.2001, p. 15.

⁵ OJ L 175, 29.6.2006, p. 99.

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 1994 concerning arrangements for implementing the Agreement on the European Economic Area⁶, and in particular Article 1(3) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Agreement on the European Economic Area⁷ ('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) Directive (EU) 2016/802 of the European Parliament and of the Council⁸ is to be incorporated into the EEA Agreement.
- (4) Annex XX (Environment) 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,

⁶ OJ L 305, 30.11.1994, p. 6.

⁷ OJ L 1, 3.1.1994, p. 3.

⁸ Directive (EU) 2016/802 of the European Parliament and of the Council of 11 May 2016 relating to a reduction in the sulphur content of certain liquid fuels, (OJ L 132, 21.5.2016, p. 58.)

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.

Article 2

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

Done at Brussels,

*For the Council
The President*