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Subject: Draft DECISION OF THE EEA JOINT COMMITTEE amending Annex II
(Technical regulations, standards, testing and certification) and Annex XIII
(Transport) to the EEA Agreement

DRAFT

**DECISION
OF THE EEA JOINT COMMITTEE**

No [..]

of ...

**amending Annex II (Technical regulations, standards, testing and certification)
and Annex XIII (Transport) to the EEA Agreement**

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area ('the EEA Agreement'), and in particular Article 98 thereof,

Whereas:

- (1) Regulation (EU) 2018/1139 of the European Parliament and of the Council of 4 July 2018 on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency, and amending Regulations (EC) No 2111/2005, (EC) No 1008/2008, (EU) No 996/2010, (EU) No 376/2014 and Directives 2014/30/EU and 2014/53/EU of the European Parliament and of the Council, and repealing Regulations (EC) No 552/2004 and (EC) No 216/2008 of the European Parliament and of the Council and Council Regulation (EEC) No 3922/91¹ is to be incorporated into the EEA Agreement.
- (2) The activities of the European Union Aviation Safety Agency ('the Agency') may affect the level of civil aviation safety within the European Economic Area.
- (3) Regulation (EU) 2018/1139 should therefore be incorporated into the EEA Agreement in order to allow for the full participation of the EFTA States in the activities of the Agency.

¹ OJ L 212, 22.8.2018, p. 1.

- (4) Some air traffic management/air navigation services provisions of Regulation (EU) 2018/1139, and the delegated and implementing acts adopted on the basis thereof, originate from Annexes to the Convention on International Civil Aviation (Chicago Convention), Procedures for Air Navigation Services (PANS) and Regional Supplementary Procedures (SUPPS) applicable to the ICAO European (EUR) and/or Africa-Indian Ocean (AFI) regions, which may be ill-suited or incompatible with those applicable to the ICAO North-Atlantic (NAT) region. While Iceland is committed to fulfilling and complying with the provisions of Regulation (EU) 2018/1139, its location in the NAT region implies fulfilment and compliance with the SUPPS applicable to the NAT region. Therefore, NAT SUPPS and guidance material specific to the NAT region may be considered as appropriate Acceptable Means of Compliance (AMC) and Guidance Material (GM) for Iceland.
- (5) Annexes II and XIII to the EEA Agreement should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Annex II to the EEA Agreement shall be amended as follows:

1. The following is added in point 7e (Directive 2014/30/EU of the European Parliament and of the Council) of Chapter X:

‘, as amended by:

- **32018 R 1139**: Regulation (EU) 2018/1139 of the European Parliament and of the Council of 4 July 2018 (OJ L 212, 22.8.2018, p. 1).’

2. The following is added in point 4zzr (Directive 2014/53/EU of the European Parliament and of the Council) of Chapter XVIII:

‘, as amended by:

- **32018 R 1139**: Regulation (EU) 2018/1139 of the European Parliament and of the Council of 4 July 2018 (OJ L 212, 22.8.2018, p. 1).’

Article 2

Annex XIII to the EEA Agreement shall be amended as follows:

1. Point 64a (Regulation (EC) No 1008/2008 of the European Parliament and of the Council) is amended as follows:
 - (i) the following indent is added:
 - ‘- **32018 R 1139**: Regulation (EU) 2018/1139 of the European Parliament and of the Council of 4 July 2018 (OJ L 212, 22.8.2018, p. 1).’
 - (ii) the following adaptation is added after adaptation (c):
 - ‘(d) The following paragraph shall be added in Article 25:
 - “3. The EFTA States shall participate fully in the committee established pursuant to paragraph 1 and shall within it have the same rights and obligations as EU Member States, except for the right to vote. The EFTA Surveillance Authority shall have observer status in the committee.”

2. The following indent is added in points 66a (Council Regulation (EEC) No 3922/91), 66n (Regulation (EC) No 216/2008 of the European Parliament and of the Council) and 66w (Regulation (EC) No 552/2004 of the European Parliament and of the Council):

‘- **32018 R 1139**: Regulation (EU) 2018/1139 of the European Parliament and of the Council of 4 July 2018 (OJ L 212, 22.8.2018, p. 1).’

3. The following is added in points 66d (Regulation (EU) No 996/2010 of the European Parliament and of the Council) and 66gc (Regulation (EU) No 376/2014 of the European Parliament and of the Council):

‘, as amended by:

– **32018 R 1139**: Regulation (EU) 2018/1139 of the European Parliament and of the Council of 4 July 2018 (OJ L 212, 22.8.2018, p. 1).’

4. Point 66za (Regulation (EC) No 2111/2005 of the European Parliament and of the Council) is amended as follows:

(i) the following is added:

‘, as amended by:

– **32018 R 1139**: Regulation (EU) 2018/1139 of the European Parliament and of the Council of 4 July 2018 (OJ L 212, 22.8.2018, p. 1).’

(ii) the text of adaptation (c) shall be replaced by the following:

‘The following paragraph shall be added in Article 15:

“6. The EFTA States shall participate fully in the committee established pursuant to paragraph 1 and shall within it have the same rights and obligations as EU Member States, except for the right to vote. The EFTA Surveillance Authority shall have observer status in the committee.”

5. The following is inserted after point 66zab (Commission Regulation (EC) No 474/2006):

‘66zb. **32018 R 1139**: Regulation (EU) 2018/1139 of the European Parliament and of the Council of 4 July 2018 on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency, and amending Regulations (EC) No 2111/2005, (EC) No 1008/2008, (EU) No 996/2010, (EU) No 376/2014 and Directives 2014/30/EU and 2014/53/EU of the European Parliament and of the Council, and repealing Regulations (EC) No 552/2004 and (EC) No 216/2008 of the European Parliament and of the Council and Council Regulation (EEC) No 3922/91 (OJ L 212, 22.8.2018, p. 1).

The provisions of the Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

- (a) Unless otherwise stipulated below, and notwithstanding the provisions of Protocol 1 to the Agreement, the term “Member State(s)” and other terms referring to their public entities contained in the Regulation shall be understood to include, in addition to its meaning in the Regulation, the EFTA States and their public entities. Paragraph 11 of Protocol 1 shall apply.
- (b) As regards the EFTA States, the Agency shall, as and when appropriate, assist the EFTA Surveillance Authority or the Standing Committee of the EFTA States, as the case may be, in the performance of their respective tasks. The Agency and the EFTA Surveillance Authority or the Standing Committee of the EFTA States, as the case may be, shall cooperate and exchange information as and when appropriate.
- (c) Nothing in this Regulation shall be construed so as to transfer to the Agency authority to act on behalf of the EFTA States under international agreements for other purposes than to assist in the performance of their obligations pursuant to such agreements.

- (d) Relevant Air traffic management/air navigation services requirements in the Regulation, its implementing and delegated acts, which stem from provisions applicable to the ICAO European (EUR) and/or Africa-Indian Ocean (AFI) regions should be understood as not being a requirement for Iceland, where Iceland complies with ICAO North Atlantic (NAT) Regional Supplementary Procedures. The latter may be considered to be Acceptable Means of Compliance (AMC) and Guidance Material (GM) for Iceland.

Air traffic management/air navigation services references in the Regulation, or in its implementing and delegated acts, to other EU Regulations which are limited in their geographical scope to the ICAO EUR and or AFI regions, are not binding on Iceland, unless Iceland has specifically stated that such regulations are applicable in Iceland.

- (e) Where Iceland complies with NAT Regional Supplementary Procedures (SUPPS) and or guidance material (GM) specific to the NAT region, the use of Alternative Means of Compliance (AltMOC) and subsequent notification thereof, is not required.

- (f) The EFTA States shall participate in the repository of information set up by the Agency in cooperation with the Commission, the EFTA Surveillance Authority and the national competent authorities referred to in Article 74.
- (g) In Article 62:
- (i) in paragraph 1, the words “the EFTA Surveillance Authority,” shall be inserted after the words “The Commission,”.
 - (ii) in paragraph 5(a), the words “and an EFTA State” shall be inserted after the words “those Member States”.
 - (iii) as regards the EFTA States, the second subparagraph of paragraph 5 shall read as follows:

“The EFTA States concerned shall, at the latest six months after the date of entry into force of Decision of the EEA Joint Committee No .../... of ... [this decision], notify the Commission, the Agency and the EFTA Surveillance Authority of their joint-responsibility decision and provide them with all relevant information, in particular the agreement referred to in point (a) and the measures taken to ensure that those tasks are carried out effectively in accordance with point (b). The Commission and the EFTA Surveillance Authority shall cooperate on their assessment of the notification.”.

- (iv) in the third subparagraph of paragraph 5, the words “or, as regards the EFTA States, the EFTA Surveillance Authority” shall be inserted after the words “the Commission”, and the words “, the EFTA Surveillance Authority” shall be inserted after the words “inform the Commission”.
 - (v) in paragraph 9, the words “the EFTA Surveillance Authority,” shall be inserted after the words “the Commission,”.
- (h) In Article 66:
- (i) in paragraph 1, the words “or, as regards the EFTA States, the EFTA Surveillance Authority” shall be inserted after the words “the Commission”.
 - (ii) in paragraph 3, the words “, the EFTA Surveillance Authority” shall be inserted after the words “the Commission”.
 - (iii) in paragraph 4, the words “or the EFTA Surveillance Authority, as the case may be,” shall be inserted after the words “the Commission”.

(i) In Article 68:

- (i) in paragraph 1(a), the words “, an EFTA State or EFTA States” shall be inserted after the words “the Union”.
- (ii) in paragraph 1(c), the words “, an EFTA State or EFTA States” shall be inserted after the words “a Member State”.
- (iii) the following subparagraph shall be added to paragraph 3:

“Whenever the Union enters into consultations with a third country with the aim of concluding agreements concerning the recognition of certificates or concludes such agreements, the EFTA States shall be kept duly informed and the Union and its Member States will endeavour to open the possibility for the EFTA States to accede to that agreement or to obtain for the EFTA States an offer of a similar agreement with that third country. The EFTA States shall, in turn, endeavour to conclude with third countries agreements corresponding to those of the Union.”.

(j) In Article 72:

- (i) in paragraphs 1 and 6, the words “, the EFTA Surveillance Authority” shall be inserted after the words “the Commission”.

- (ii) in paragraph 4, the words “or, as regards the EFTA States, the EFTA Surveillance Authority,” shall be inserted after the words “the Commission”.
- (iii) the following paragraph shall be added:
 - “8. Information or data stemming from the EFTA States and the EFTA Surveillance Authority should at all times be afforded equivalent protection to information or data stemming from the EU Member States, the Agency and the Commission.”.
- (k) In Article 74(1) to (7), the words “or, as regards the EFTA States, the EFTA Surveillance Authority” shall be inserted after the words “the Commission”.
- (l) The following paragraph shall be added to Article 75:
 - “3. The Agency shall also assist the EFTA Surveillance Authority with measures and tasks pursuant to this Article.”.

(m) In Article 76:

- (i) in paragraph 2, the words “or, as regards the EFTA States, the EFTA Surveillance Authority” shall be inserted after the words “the Commission”.
- (ii) in the third subparagraph of paragraph 4, the words “, the EFTA Surveillance Authority” shall be inserted after the words “the Commission”.

(n) In Article 84:

- (i) the following subparagraph shall be added to paragraph 1:

“The power to impose fines and periodic penalty payments on the natural or legal person to which the Agency has issued a certificate, or who has made a declaration to it, in accordance with this Regulation, shall in the case where such a natural or legal person has its principal place of business in an EFTA State or, if that person has no principal place of business, where it has its place of residence or place of establishment in an EFTA State, be vested in the EFTA Surveillance Authority.”.

- (ii) in paragraph 3, the words “or, as regards the EFTA States, the EFTA Surveillance Authority” shall be inserted after the words “the Commission”.
 - (iii) in paragraph 5, the words “or, as regards the EFTA States, the EFTA Court,” shall be inserted after the words “The Court of Justice” and the words “and, as regards the EFTA States, the EFTA Surveillance Authority” shall be inserted after the words “the Commission”.
 - (iv) in paragraph 6, the words “or, as regards the EFTA States, the EFTA Surveillance Authority” shall be inserted after the words “the Commission”.
- (o) In Article 85, the following subparagraph shall be added in paragraph 1:
- “The Agency shall also assist the EFTA Surveillance Authority and provide it with the same support, where such measures and tasks fall within the competence of the EFTA Surveillance Authority pursuant to the EEA Agreement. The Agency shall report to the EFTA Surveillance Authority on inspections and other monitoring activities conducted in an EFTA State.”.

- (p) In Article 88:
- (i) in paragraph 1, the words “, the EFTA Surveillance Authority,” shall be inserted after the words “the Commission”.
 - (ii) in paragraph 2, the words “and the EFTA Surveillance Authority” shall be inserted after the words “the Commission”.
 - (iii) in paragraph 3, the words “or, as regards the EFTA States, the EFTA Surveillance Authority,” shall be inserted after the words “the Commission”.
- (q) In Article 89(1), the words “, the EFTA Surveillance Authority,” shall be inserted after the words “the Commission”.
- (r) In Article 90(4), the words “, the EFTA Surveillance Authority” shall be inserted after the words “the Commission”.
- (s) In Article 93, the words “and the EFTA Surveillance Authority” shall be inserted after the words “the Commission”.

(t) The following paragraph shall be added to Article 95:

“3. By way of derogation from Articles 12(2)(a) and 82(3)(a) of the Conditions of Employment of Other Servants, nationals of the EFTA States enjoying their full rights as citizens may be engaged under contract by the Executive Director of the Agency.

By way of derogation from Articles 12(2)(e), 82(3)(e) and 85(3) of the Conditions of Employment of Other Servants of the European Union, the languages referred to in Article 129(1) of the EEA Agreement shall be considered by the Agency, in respect of its staff, as languages of the Union referred to in Article 55(1) of the Treaty on European Union.”.

(u) The following shall be added to Article 96:

“The EFTA States shall grant privileges and immunities to the Agency and its staff equivalent to those contained in Protocol (No 7) on the privileges and immunities of the European Union annexed to the Treaty on European Union and to the TFEU.”.

(v) The following paragraph shall be added to Article 99:

“6. The EFTA States shall participate fully in the Management Board and shall within it have the same rights and obligations as EU Member States, except for the right to vote. The EFTA Surveillance Authority, as observer, shall appoint one representative and an alternate.”

(w) The following paragraph shall be added to Article 106:

“7. Nationals of the EFTA States shall be eligible as members, including Chairpersons, of the Boards of Appeal. When the Commission draws up the list of qualified candidates referred to in paragraph 1, it shall also consider EFTA nationals as candidates.”

(x) In Article 114(3), the words “, the EFTA Surveillance Authority and EFTA States” shall be inserted after the words “Member States”.

(y) In Article 119:

(i) in paragraph 1, the following sentence shall be inserted after the words “held by the Agency.”:

“Regulation (EC) No 1049/2001 shall, for the application of this Regulation, apply to any documents of the Agency regarding the EFTA States.”.

(ii) in paragraph 3, the words “, Icelandic and Norwegian” shall be inserted after the words “the Union”.

(iii) in paragraph 5, the words “or in Icelandic or Norwegian” shall be inserted after the words “the Union”.

(z) The following paragraph shall be added to Article 120:

“13. The EFTA States shall participate in the financial contribution from the Union referred to in paragraph 1(a). For this purpose, the procedures laid down in Article 82(1)(a) of and Protocol 32 to the Agreement shall apply *mutatis mutandis*.”.

(za) The following paragraph shall be added to Article 127:

“5. The EFTA States shall participate fully in the committee established pursuant to paragraph 1 and shall within it have the same rights and obligations as EU Member States, except for the right to vote. The EFTA Surveillance Authority shall have observer status in the committee.”.

(zb) In Article 128(4), the words “and EFTA State” shall be inserted after the words “each Member State”.

(zc) Article 140(6) shall not apply to the EFTA States.

(zd) Where applicable, and unless otherwise provided, the above adaptations shall apply *mutatis mutandis* to other Union legislation conferring powers on the Agency and incorporated into this Agreement.’

Article 3

The text of Regulation (EU) 2018/1139 in the Icelandic and Norwegian languages, to be published in the EEA Supplement to the *Official Journal of the European Union*, shall be authentic.

Article 4

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

Article 5

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.]

Joint Declaration by the Contracting Parties
to Decision No .../...
incorporating Regulation (EU) 2018/1139 of the European Parliament and of the Council
into the Agreement

The parties acknowledge that the incorporation of this act is without prejudice to the direct application of Protocol 7 on the privileges and immunities of the European Union to the nationals of EFTA States in the territory of each Member State of the European Union, pursuant to Article 11 of that Protocol.
