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PROPOSAL

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	22 November 2021
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2021) 712 final - ANNEX I
Subject:	ANNEX to the Proposal for a COUNCIL DECISION on the position to be adopted, on behalf of the European Union, within the EEA Joint Committee, concerning the amendment to Annex II (Technical regulations, standards, testing and certification) to the EEA Agreement (Tobacco Product Directive)

Delegations will find attached document COM(2021) 712 final - ANNEX I.

Encl.: COM(2021) 712 final - ANNEX I



EUROPEAN
COMMISSION

Brussels, 22.11.2021
COM(2021) 712 final

ANNEX

ANNEX

to the

Proposal for a COUNCIL DECISION

on the position to be adopted, on behalf of the European Union, within the EEA Joint Committee, concerning the amendment to Annex II (Technical regulations, standards, testing and certification) to the EEA Agreement

(Tobacco Product Directive)

ANNEX

DRAFT DECISION OF THE EEA JOINT COMMITTEE

No [...]

of [...]

**amending Annex II (Technical regulations, standards, testing and certification) 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) Directive 2014/40/EU of the European Parliament and of the Council of 3 April 2014 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products and repealing Directive 2001/37/EC¹, as corrected by OJ L 150, 17.6.2015, p. 24, is to be incorporated into the EEA Agreement.
- (2) Commission Delegated Directive 2014/109/EU of 10 October 2014 amending Annex II to Directive 2014/40/EU of the European Parliament and of the Council by establishing the library of picture warnings to be used on tobacco products² is to be incorporated into the EEA Agreement.
- (3) Directive 2014/40/EU repeals Directive 2001/37/EC of the European Parliament and of the Council³, which is incorporated into the EEA Agreement and which is consequently to be repealed under the EEA Agreement.
- (4) Norway should maintain its adaptation to Directive 2001/37/EC with regard to the product defined in Article 2(8) of Directive 2014/40/EU ‘tobacco for oral use’.
- (5) Given the adaptation with regard to the product defined in Article 2(8) of Directive 2014/40/EU and on the basis of specific national circumstances supported by statistics regarding the health risks related to the use of oral tobacco and its use patterns, Norway should be free to allow the alternative additional health warning for tobacco for oral use as indicated in Article 1, letter c) of this Decision.
- (6) Annex II to the EEA Agreement should therefore be amended accordingly,

¹ OJ L 127, 29.4.2014, p. 1.

² OJ L 360, 17.12.2014, p. 22.

³ OJ L 194, 18.7.2001, p. 26.

HAS ADOPTED THIS DECISION:

Article 1

The text of point 3 (Directive 2001/37/EC of the European Parliament and of the Council) of Chapter XXV of Annex II to the EEA Agreement is replaced by the following:

‘**32014 L 0040:** Directive 2014/40/EU of the European Parliament and of the Council of 3 April 2014 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products and repealing Directive 2001/37/EC (OJ L 127, 29.4.2014, p. 1), as corrected by OJ L 150, 17.6.2015, p. 24, as amended by:

- **32014 L 0109:** Commission Delegated Directive 2014/109/EU of 10 October 2014 (OJ L 360, 17.12.2014, p. 22).

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

- (a) In Article 5(1), as regards the EFTA States, the words “by 20 November 2016” shall read “at the latest six months after the entry into force of Decision of the EEA Joint Committee No. .../... of [this decision]”.
- (b) The following subparagraph shall be added to Articles 6(4) and 7(13):

“In cases concerning manufacturers and importers in the EFTA States, the EFTA Surveillance Authority shall collect any fees charged by the Commission.”
- (c) With regard to Norway, the following subparagraph shall be added to Article 12(1):

“Taking into account the specific national circumstances supported by statistics regarding the health risks related to the use and use patterns of oral tobacco, tobacco for oral use placed on the market in Norway may carry the following alternative health warning:

“This tobacco product increases the risk of harm to the foetus and stillbirth””
- (d) In Article 15(13), as regards the EFTA States, the words “20 May 2019” shall read “sixteen months after the entry into force of Decision of the EEA Joint Committee No. .../... of [this decision]”.
- (e) In Article 16(3), as regards the EFTA States, the words “20 May 2019” shall read “sixteen months after the entry into force of Decision of the EEA Joint Committee No. .../... of [this decision]”.
- (f) The prohibition in Article 17 shall not apply to the placing on the market in Norway of the product defined in Article 2(8). Norway shall ban export of the product defined in Article 2(8) to all Contracting Parties to the present Agreement, with the exception of Sweden.
- (g) In Article 30 the words “20 May 2017” shall, as regards the EFTA States, read “one year after the date of the entry into force of the EEA Joint Committee Decision

incorporating Directive 2014/40/EU of the European Parliament and of the Council into the EEA Agreement”.

In Article 30(a) and (c) the words “20 May 2016” shall, as regards the EFTA States, read “the date of the entry into force of the EEA Joint Committee Decision incorporating Directive 2014/40/EU of the European Parliament and of the Council into the EEA Agreement”.

In Article 30(b) the words “20 November 2016” shall, as regards the EFTA States, read “six months after the date of the entry into force of the EEA Joint Committee Decision incorporating Directive 2014/40/EU of the European Parliament and of the Council into the EEA Agreement”.’

Article 2

The texts of Directive 2014/40/EU, as corrected by OJ L 150, 17.6.2015, p. 24, and Delegated Directive 2014/109/EU 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 3

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

Article 4

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

[...]

* Constitutional requirements indicated.