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PROPOSAL

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

date of receipt: 30 November 2017

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

No. Cion doc.: COM(2017) 711 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 XIII (Transport) to the EEA Agreement

Delegations will find attached document COM(2017) 711 final.

Encl.: COM(2017) 711 final



Brussels, 30.11.2017
COM(2017) 711 final

2017/0314 (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 XIII (Transport)
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 XIII (Transport) to the EEA Agreement in order to incorporate Directive 2014/94/EU of the European Parliament and of the Council of 22 October 2014 on the deployment of alternative fuels infrastructure¹.

- **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 91 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.

¹ OJ L 307, 28.10.2014, p. 1.

² OJ L 305, 30.11.1994, p. 6–8

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.

- **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 2014/94/EU into the EEA Agreement.

5. **OTHER ELEMENTS**

The main adaptations requested by the EFTA side

Adaptation (b), Article 6

The use of natural gas in Iceland is limited, as there is currently no market, infrastructure or undertakings in Iceland for natural gas, neither in road transport nor for seagoing vessels. No such market or undertakings have existed in the past or are foreseen to emerge in the future and no networks for gas distribution have yet been built. Against this background Article 6 of Directive 2014/94/EU should not be applicable to Iceland.

Adaptation (c), the Directive as a whole

Due to its specific situation, Liechtenstein was granted a full exemption from Directive 2009/28/EC on the use of energy from renewable sources³, which was incorporated into the EEA Agreement, and to which Directive 2014/94/EU refers at different instances.

As there are neither coastlines/ports nor airports (except for a small heliport) in Liechtenstein. The country does not have highways and most importantly, Liechtenstein is not part of the TEN-T Network, it is asking to be exempted from implementation of Directive 2014/94/EU.

³ Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC (OJ L 140, 5.6.2009, p. 16).

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 XIII (Transport)
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 91 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 Area⁴, and in particular Article 1(3) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Agreement on the European Economic Area⁵ ('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 XIII (Transport) to the EEA Agreement.
- (3) Directive 2014/94/EU of the European Parliament and of the Council⁶ is to be incorporated into the EEA Agreement.
- (4) Annex XIII (Transport) 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,

⁴ OJ L 305, 30.11.1994, p. 6.

⁵ OJ L 1, 3.1.1994, p. 3.

⁶ Directive 2014/94/EU of the European Parliament and of the Council of 22 October 2014 on the deployment of alternative fuels infrastructure, (OJ L 307, 28.10.2014, p. 1).

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 XIII (Transport) 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*