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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 Annex XX (Environment) to the EEA Agreement (CO₂ Emissions)

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 Annex XX (Environment)
to the EEA Agreement (CO₂ Emissions)**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 192(1) and 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,

Having regard to the proposal from the European Commission,

¹ OJ L 305, 30.11.1994, p. 6.

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*, Annex XX (Environment) to the EEA Agreement.
- (3) Regulation (EC) No 443/2009 of the European Parliament and of the Council² is to be incorporated into the EEA Agreement.
- (4) Commission Regulation (EU) No 1014/2010³ is to be incorporated into the EEA Agreement.
- (5) Commission Regulation (EU) No 63/2011⁴ is to be incorporated into the EEA Agreement.

¹ OJ L 1, 3.1.1994, p. 3.

² Regulation (EC) No 443/2009 of the European Parliament and of the Council of 23 April 2009 setting emission performance standards for new passenger cars as part of the Community's integrated approach to reduce CO₂ emissions from light-duty vehicles (OJ L 140, 5.6.2009, p. 1).

³ Commission Regulation (EU) No 1014/2010 of 10 November 2010 on monitoring and reporting of data on the registration of new passenger cars pursuant to Regulation (EC) No 443/2009 of the European Parliament and of the Council (OJ L 293, 11.11.2010, p. 15).

⁴ Commission Regulation (EU) No 63/2011 of 26 January 2011 laying down detailed provisions for the application for a derogation from the specific CO₂ emission targets pursuant to Article 11 of Regulation (EC) No 443/2009 of the European Parliament and of the Council (OJ L 23, 27.1.2011, p. 16).

- (6) Commission Implementing Regulation (EU) No 725/2011¹ is to be incorporated into the EEA Agreement.
- (7) Commission Implementing Regulation (EU) No 429/2012² is to be incorporated into the EEA Agreement.
- (8) Commission Implementing Regulation (EU) No 396/2013³ is to be incorporated into the EEA Agreement.
- (9) Commission Regulation (EU) No 397/2013⁴ is to be incorporated into the EEA Agreement.

¹ Commission Implementing Regulation (EU) No 725/2011 of 25 July 2011 establishing a procedure for the approval and certification of innovative technologies for reducing CO₂ emissions from passenger cars pursuant to Regulation (EC) No 443/2009 of the European Parliament and of the Council (OJ L 194, 26.7.2011, p. 19).

² Commission Implementing Regulation (EU) No 429/2012 of 22 May 2012 amending Regulation (EU) No 1014/2010 for the purpose of providing a common format for the notification of errors by manufacturers of passenger cars (OJ L 132, 23.5.2012, p. 11).

³ Commission Implementing Regulation (EU) No 396/2013 of 30 April 2013 amending Regulation (EU) No 1014/2010 as regards certain requirements for the monitoring of CO₂ emissions from new passenger cars (OJ L 120, 1.5.2013, p. 1).

⁴ Commission Regulation (EU) No 397/2013 of 30 April 2013 amending Regulation (EC) No 443/2009 of the European Parliament and of the Council as regards the monitoring of CO₂ emissions from new passenger cars (OJ L 120, 1.5.2013, p. 4).

- (10) Regulation (EU) No 333/2014 of the European Parliament and of the Council¹ is to be incorporated into the EEA Agreement.
- (11) Commission Delegated Regulation (EU) 2015/6² is to be incorporated into the EEA Agreement.
- (12) Regulation (EC) No 443/2009 repeals Decision No 1753/2000/EC of the European Parliament and of the Council³, which is incorporated into the EEA Agreement and is consequently to be repealed under the EEA Agreement.
- (13) Annex XX (Environment) to the EEA Agreement should therefore be amended accordingly.
- (14) The position of the Union within the EEA Joint Committee should therefore be based on the attached draft decision,

HAS ADOPTED THIS DECISION:

¹ Regulation (EU) No 333/2014 of the European Parliament and of the Council of 11 March 2014 amending Regulation (EC) No 443/2009 to define the modalities for reaching the 2020 target to reduce CO₂ emissions from new passenger cars (OJ L 103, 5.4.2014, p. 15).

² Commission Delegated Regulation (EU) 2015/6 of 31 October 2014 amending Annex I to Regulation (EC) No 443/2009 of the European Parliament and of the Council in order to take into account the evolution of the mass of new passenger cars registered in 2011, 2012 and 2013 (OJ L 3, 7.1.2015, p. 1).

³ Decision No 1753/2000/EC of the European Parliament and of the Council of 22 June 2000 establishing a scheme to monitor the average specific emissions of CO₂ from new passenger cars (OJ L 202, 10.8.2000, p. 1).

Article 1

The position to be adopted, on the Union's behalf, 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

DRAFT

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

of ...

amending Annex XX (Environment) 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 (EC) No 443/2009 of the European Parliament and of the Council of 23 April 2009 setting emission performance standards for new passenger cars as part of the Community's integrated approach to reduce CO₂ emissions from light-duty vehicles¹ is to be incorporated into the EEA Agreement.
- (2) Commission Regulation (EU) No 1014/2010 of 10 November 2010 on monitoring and reporting of data on the registration of new passenger cars pursuant to Regulation (EC) No 443/2009 of the European Parliament and of the Council² is to be incorporated into the EEA Agreement.
- (3) Commission Regulation (EU) No 63/2011 of 26 January 2011 laying down detailed provisions for the application for a derogation from the specific CO₂ emission targets pursuant to Article 11 of Regulation (EC) No 443/2009 of the European Parliament and of the Council³ is to be incorporated into the EEA Agreement.
- (4) Commission Implementing Regulation (EU) No 725/2011 of 25 July 2011 establishing a procedure for the approval and certification of innovative technologies for reducing CO₂ emissions from passenger cars pursuant to Regulation (EC) No 443/2009 of the European Parliament and of the Council⁴ is to be incorporated into the EEA Agreement.

¹ OJ L 140, 5.6.2009, p. 1.

² OJ L 293, 11.11.2010, p. 15.

³ OJ L 23, 27.1.2011, p. 16.

⁴ OJ L 194, 26.7.2011, p. 19.

- (5) Commission Implementing Regulation (EU) No 429/2012 of 22 May 2012 amending Regulation (EU) No 1014/2010 for the purpose of providing a common format for the notification of errors by manufacturers of passenger cars¹ is to be incorporated into the EEA Agreement.
- (6) Commission Implementing Regulation (EU) No 396/2013 of 30 April 2013 amending Regulation (EU) No 1014/2010 as regards certain requirements for the monitoring of CO₂ emissions from new passenger cars² is to be incorporated into the EEA Agreement.
- (7) Commission Regulation (EU) No 397/2013 of 30 April 2013 amending Regulation (EC) No 443/2009 of the European Parliament and of the Council as regards the monitoring of CO₂ emissions from new passenger cars³ is to be incorporated into the EEA Agreement.
- (8) Regulation (EU) No 333/2014 of the European Parliament and of the Council of 11 March 2014 amending Regulation (EC) No 443/2009 to define the modalities for reaching the 2020 target to reduce CO₂ emissions from new passenger cars⁴ is to be incorporated into the EEA Agreement.

¹ OJ L 132, 23.5.2012, p. 11.

² OJ L 120, 1.5.2013, p. 1.

³ OJ L 120, 1.5.2013, p. 4.

⁴ OJ L 103, 5.4.2014, p. 15.

- (9) Commission Delegated Regulation (EU) 2015/6 of 31 October 2014 amending Annex I to Regulation (EC) No 443/2009 of the European Parliament and of the Council in order to take into account the evolution of the mass of new passenger cars registered in 2011, 2012 and 2013¹ is to be incorporated into the EEA Agreement.
- (10) Regulation (EC) No 443/2009 repeals Decision No 1753/2000/EC of the European Parliament and of the Council², which is incorporated into the EEA Agreement and which is consequently to be repealed under the EEA Agreement.
- (11) Annex XX to the EEA Agreement should be amended accordingly,

HAS ADOPTED THIS DECISION:

¹ OJ L 3, 7.1.2015, p. 1.

² OJ L 202, 10.8.2000, p. 1.

Article 1

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

1. The text of point 21ae (Decision No 1753/2000/EC of the European Parliament and of the Council) is replaced by the following:

'32009 R 0443: Regulation (EC) No 443/2009 of the European Parliament and of the Council of 23 April 2009 setting emission performance standards for new passenger cars as part of the Community's integrated approach to reduce CO₂ emissions from light-duty vehicles (OJ L 140, 5.6.2009, p. 1), as amended by:

- **32013 R 0397:** Commission Regulation (EU) No 397/2013 of 30 April 2013 (OJ L 120, 1.5.2013, p. 4),
- **32014 R 0333:** Regulation (EU) No 333/2014 of the European Parliament and of the Council of 11 March 2014 (OJ L 103, 5.4.2014, p. 15),
- **32015 R 0006:** Commission Delegated Regulation (EU) 2015/6 of 31 October 2014 (OJ L 3, 7.1.2015, p. 1).

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

- (a) The following subparagraph shall be added in Article 7(2):

"If the pool includes only manufacturers established in the EFTA States, the manufacturers shall file the information with the EFTA Surveillance Authority. If the pool includes at least one manufacturer established in the Union and at least one manufacturer established in the EFTA States, the manufacturers shall file the information with the Commission and the EFTA Surveillance Authority."

- (b) The following subparagraph shall be added in Article 7(3):

"The EFTA Surveillance Authority shall notify manufacturers established in the EFTA States."

- (c) The following subparagraph shall be added in Article 7(4):

"If the pool includes only manufacturers established in the EFTA States, the manufacturers shall jointly inform the EFTA Surveillance Authority. If the pool includes or is extended to include at least one manufacturer established in the Union and at least one manufacturer established in the EFTA States, the manufacturers shall jointly inform both the Commission and the EFTA Surveillance Authority."

- (d) In Article 7(5), the words "Articles 81 and 82 of the Treaty" shall read "Articles 53 and 54 of the EEA Agreement" and the word "Community" shall read "EEA".
- (e) In Article 7(7) and Article 10(1), the words "or the EFTA Surveillance Authority" shall be inserted after the word "Commission".
- (f) The data reported by the EFTA States shall also be kept in the central register referred to in Article 8(4).
- (g) The following subparagraph shall be added in Article 8(4):

"The EFTA Surveillance Authority shall make the calculations set out in subparagraph 1 for manufacturers established in the EFTA States and notify each manufacturer established in the EFTA States in accordance with the second subparagraph."
- (h) Without prejudice to Protocol 1 to the Agreement, in Article 8(5) and (6), Article 11(3), (4), (5) and (6), the words "or the EFTA Surveillance Authority, as the case may be," shall be inserted after the word "Commission".
- (i) The following subparagraphs shall be added in Article 9(1):

"Where the manufacturer or pool manager is established in an EFTA State, the EFTA Surveillance Authority shall impose the excess emissions premium."

The amounts of the excess emissions premium shall be distributed between the Commission and the EFTA Surveillance Authority proportionally to the share of the registrations of new passenger cars registered in the EU or in the EFTA States, respectively, relative to the total number of new passenger cars registered in the EEA."

- (j) The following subparagraphs shall be added in Article 9(3):

"The European Commission shall use its established means for collecting excess emissions premiums as stipulated in Commission Decision 2012/100/EU under paragraph 1 also in relation to the registrations in EFTA States of manufacturers established in the EU.

The EFTA Surveillance Authority shall determine the means for collecting excess emissions premiums under paragraph 1. These means shall be based on the Commission's means."

- (k) The following subparagraph shall be added in Article 9(4):

"For the EFTA States, the EFTA States shall determine the allocation of the amounts of the excess emissions premium."

- (l) Without prejudice to Protocol 1 to the Agreement, in Article 11(2) and (4) second subparagraph, the words ", or, in the case of a manufacturer established in the EFTA States, to the EFTA Surveillance Authority," shall be inserted after the word "Commission".

(m) The following subparagraph shall be added in Article 12(2):

"Suppliers or manufacturers established in the EFTA States shall send applications pursuant to this Article to the Commission. The Commission shall give the same priority to such applications as to other applications pursuant to this Article."

(n) The following subparagraph shall be added in Article 12(4):

"Commission Decisions approving innovative technologies pursuant to this Article are generally applicable and shall be incorporated into the EEA Agreement."

(o) This Regulation shall not apply to Liechtenstein.'.

2. The following is inserted after point 21ae (Decision No 1753/2000/EC of the European Parliament and of the Council:

'21aea. **32011 R 0063**: Commission Regulation (EU) No 63/2011 of 26 January 2011 laying down detailed provisions for the application for a derogation from the specific CO₂ emission targets pursuant to Article 11 of Regulation (EC) No 443/2009 of the European Parliament and of the Council (OJ L 23, 27.1.2011, p. 16).

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

- (a) Without prejudice to Protocol 1 to the Agreement, in Article 7(1), the words ", or the EFTA Surveillance Authority, as the case may be," shall be inserted after the word "Commission";
- (b) Article 7(2) and the email set out in Annex I shall not apply as regards the EFTA Surveillance Authority.

21aeb. **32011 R 0725**: Commission Implementing Regulation (EU) No 725/2011 of 25 July 2011 establishing a procedure for the approval and certification of innovative technologies for reducing CO₂ emissions from passenger cars pursuant to Regulation (EC) No 443/2009 of the European Parliament and of the Council (OJ L 194, 26.7.2011, p. 19).

21aec. **32010 R 1014**: Commission Regulation (EU) No 1014/2010 of 10 November 2010 on monitoring and reporting of data on the registration of new passenger cars pursuant to Regulation (EC) No 443/2009 of the European Parliament and of the Council (OJ L 293, 11.11.2010, p. 15), as amended by:

- **32012 R 0429**: Commission Implementing Regulation (EU) No 429/2012 of 22 May 2012 (OJ L 132, 23.5.2012, p. 11),
- **32013 R 0396**: Commission Implementing Regulation (EU) No 396/2013 of 30 April 2013 (OJ L 120, 1.5.2013, p. 1).

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

- (a) In Articles 8 and 9, the words ", or, in the case of a manufacturer established in the EFTA States, to the EFTA Surveillance Authority," shall be inserted after the word "Commission".
- (b) Article 9(5) shall not apply as regards the EFTA Surveillance Authority.'.

Article 2

The texts of Regulations (EC) No 443/2009, (EU) No 1014/2010, (EU) No 63/2011, (EU) No 397/2013 and (EU) No 333/2014 and Implementing Regulations (EU) No 725/2011, (EU) No 429/2012 and (EU) No 396/2013 and Delegated Regulation (EU) No 2015/6 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 [...], provided that all the notifications under Article 103(1) of the EEA Agreement have been made*.

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*

* [No constitutional requirements indicated.] [Constitutional requirements indicated.]