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PROPOSAL

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	11 June 2019
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2019) 269 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 an amendment to Annex II (Technical regulations, standards, testing and certification) to the EEA Agreement

Delegations will find attached document COM(2019) 269 final - ANNEX I.

Encl.: COM(2019) 269 final - ANNEX I

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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 an amendment to Annex II (Technical regulations, standards, testing and certification) to the EEA Agreement

ANNEX

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/EC[1], 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 products[2] 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European Parliament and of the Council[3], which is incorporated into the EEA Agreement and which is consequently to be repealed under the EEA Agreement.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,

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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 L0109**: Commission Delegated Directive 2014/109/EU of 10 October 2014 (OJ L 360, 17.12.2014, p. 22).

The transitional arrangements set out in the Annexes to the Act of Accession of 25 April 2005 for Bulgaria (Annex VI, Chapter 7), shall apply.

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

(a) The following subparagraph shall be added to Article 5(7):

"The EFTA States, and the EFTA Surveillance Authority as the case may be, shall ensure that the Commission has access to all data and information to be provided."

(b) The following subparagraph shall be added to Article 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 fetus and stillbirth'"

(d) The prohibition in Article 17 shall not apply to the placing on the market in Norway of the product defined in Article 2(8). This derogation shall not apply to the prohibition of sales of the product defined in Article 2(8) in forms resembling food products. 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.

(e) 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 […], 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

[...]

* Constitutional requirements indicated.