Council of the European Union

Brussels, 9 July 2021
(OR. en)

Interinstitutional File: 2021/0189(NLE)

10691/21
ADD 1

AELE 44
EEE 28
N 67
ISL 23
FL 23
MI 555
BUDGET 18
POLARM 4
POLMIL 115
RECH 343

PROPOSAL

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	8 July 2021
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2021) 376 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 Protocol 31 to the EEA Agreement, on cooperation in specific fields outside the four freedoms (European Defence Fund)

Delegations will find attached document COM(2021) 376 final - ANNEX I.

Encl.: COM(2021) 376 final - ANNEX I

EUROPEAN
COMMISSION

Brussels, 8.7.2021
COM(2021) 376 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 an amendment to Protocol 31 to the EEA Agreement, on cooperation in specific fields outside the four freedoms

(European Defence Fund)

ANNEX

DECISION OF THE EEA JOINT COMMITTEE

No […]

of […]

amending Protocol 31 to the EEA Agreement, on cooperation in specific fields outside the four freedoms

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area ("the EEA Agreement"), and in particular Articles 86 and 98 thereof,

Whereas:

(1) It is appropriate to extend the cooperation of the Contracting Parties to the EEA Agreement to include Regulation (EU) 2021/697 of the European Parliament and of the Council of 29 April 2021 establishing the European Defence Fund and repealing Regulation (EU) 2018/1092[1].

(2) It is appropriate that the participation of EFTA States in the activities resulting from Regulation (EU) 2021/697 commence from 1 January 2021, irrespective of when this Decision is adopted, or whether the fulfilment of constitutional requirements for this Decision, if any, is notified after 10 July 2021.

(3) Entities established in the EFTA States should be entitled to participate in activities which start before the entry into force of this Decision. The costs incurred for such activities, the implementation of which starts after 1 January 2021, may be considered eligible under the same conditions as those applicable to costs incurred by entities established in the EU Member States, provided that this Decision enters into force before the end of the action concerned.

(4) The conditions for participation of EFTA States and their institutions, undertakings, organizations and nationals in programmes of the European Union are set out in the EEA Agreement and in particular in Article 81 thereof.

(5) Protocol 31 to the EEA Agreement should therefore be amended accordingly, in order to allow for this extended cooperation to take place from 1 January 2021,

HAS ADOPTED THIS DECISION:

Article 1

The following is added in paragraph 5 of Article 1 of Protocol 31 to the EEA Agreement:

'- **32021 R 0697**: Regulation (EU) 2021/697 of the European Parliament and of the Council of 29 April 2021 establishing the European Defence Fund and repealing Regulation (EU) 2018/1092 (OJ L 170, 12.5.2021, p. 149).

[1] OJ L 170, 12.5.2021, p. 149.

The costs incurred for activities the implementation of which starts after 1 January 2021 may be considered eligible as from the beginning of the action under the grant agreement or the grant decision concerned, provided that Decision of the EEA Joint Committee No XX/2021 of xx 2021 [this Decision] enters into force before the end of the action.

Iceland and Liechtenstein shall be exempted from the participation in, and the financial contribution to, this programme.'

Article 2

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

It shall apply from 1 January 2021.

Article 3

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.]

Declaration by the EFTA States

to Decision No […] of xx 2021 amending Protocol 31 to the EEA Agreement to extend the cooperation of the Contracting Parties to include the participation of the EFTA States in the European Defence Fund

[for adoption with the Decision and for publication in the OJ]

This Decision extends the cooperation of the Contracting Parties to include the participation of the EFTA States in the European Defence Fund. The EFTA States consider that defence matters fall outside the scope of the EEA Agreement, and therefore that the adoption of this Decision does not extend the scope of the EEA Agreement to include defence matters beyond the participation of the EFTA States in the European Defence Fund. The EFTA States also stress that Iceland and Liechtenstein shall not participate in, and shall not financially contribute to, the European Defence Fund.