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PROPOSAL

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	10 September 2021
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2021) 546 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 XIII (Transport) to the EEA Agreement (3rd and 4th Railway Packages)

Delegations will find attached document COM(2021) 546 final - ANNEX I.

Encl.: COM(2021) 546 final - ANNEX I

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ANNEX 1

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 XIII (Transport) to the EEA Agreement

(3rd and 4th Railway Packages)

ANNEX 1

DECISION OF THE EEA JOINT COMMITTEE

No […]

of […]

amending Annex XIII (Transport) 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 2012/34/EU of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area[1], as corrected by OJ L 67, 12.3.2015, p. 32, is to be incorporated into the EEA Agreement.

(2) Directive (EU) 2016/2370 of the European Parliament and of the Council of 14 December 2016 amending Directive 2012/34/EU as regards the opening of the market for domestic passenger transport services by rail and the governance of the railway infrastructure[2] is to be incorporated into the EEA Agreement.

(3) Commission Implementing Regulation (EU) 2015/171 of 4 February 2015 on certain aspects of the procedure of licensing railway undertakings[3] is to be incorporated into the EEA Agreement.

(4) Commission Implementing Regulation (EU) 2015/429 of 13 March 2015 setting out the modalities to be followed for the application of the charging for the cost of noise effects[4] is to be incorporated into the EEA Agreement.

(5) Commission Implementing Regulation (EU) 2015/909 of 12 June 2015 on the modalities for the calculation of the cost that is directly incurred as a result of operating the train service[5] is to be incorporated into the EEA Agreement.

(6) Commission Implementing Regulation (EU) 2015/1100 of 7 July 2015 on the reporting obligations of the Member States in the framework of rail market monitoring[6] is to be incorporated into the EEA Agreement.

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1 OJ L 343, 14.12.2012, p. 32.
2 OJ L 352, 23.12.2016, p. 1.
3 OJ L 29, 5.2.2015, p. 3.
4 OJ L 70, 14.3.2015, p. 36.
5 OJ L 148, 13.6.2015, p. 17.
6 OJ L 181, 9.7.2015, p. 1.

(7) Commission Implementing Regulation (EU) 2016/545 of 7 April 2016 on procedures and criteria concerning framework agreements for the allocation of rail infrastructure capacity[7] is to be incorporated into the EEA Agreement.

(8) Commission Implementing Regulation (EU) 2017/2177 of 22 November 2017 on access to service facilities and rail-related services[8] is to be incorporated into the EEA Agreement.

(9) Commission Implementing Regulation (EU) 2018/1795 of 20 November 2018 laying down procedure and criteria for the application of the economic equilibrium test pursuant to Article 11 of Directive 2012/34/EU of the European Parliament and of the Council[9] is to be incorporated into the EEA Agreement.

(10) Commission Delegated Decision (EU) 2017/2075 of 4 September 2017 replacing Annex VII to Directive 2012/34/EU of the European Parliament and of the Council establishing a single European railway area[10] is to be incorporated into the EEA Agreement.

(11) Directive 2012/34/EU repeals Council Directives 91/440/EEC[11] and 95/18/EC[12] and Directive 2001/14/EC of the European Parliament and of the Council[13], which are incorporated into the EEA Agreement and which are consequently to be repealed under the EEA Agreement.

(12) Implementing Regulation (EU) 2018/1795 repeals, with effect from 12 December 2020, Commission Implementing Regulation No 869/2014[14] which is incorporated into the EEA Agreement and which is consequently to be repealed under the EEA Agreement with effect from 12 December 2020.

(13) Annex XIII to the EEA Agreement should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

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

1. The text of point 37 (Council Directive 91/440/EEC) shall be replaced by the following:

'**32012 L 0034**: Directive 2012/34/EU of 21 November 2012 of the European Parliament and of the Council establishing a single European railway area (OJ L 343, 14.12.2012, p. 32), as corrected by OJ L 67, 12.3.2015, p. 32, as amended by:

– **32016 L 2370:** Directive (EU) 2016/2370 of the European Parliament and of the Council of 14 December 2016 (OJ L 352, 23.12.2016, p. 1).

7 OJ L 94, 8.4.2016, p. 1.
8 OJ L 307, 23.11.2017, p. 1.
9 OJ L 294, 21.11.2018, p. 5.
10 OJ L 295, 14.11.2017, p. 69.
11 OJ L 237, 24.8.1991, p. 25.
12 OJ L 143, 27.6.1995, p. 70.
13 OJ L 75, 15.3.2001, p. 29.
14 OJ L 239, 12.8.2014, p.1

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

(a) The references to Articles 93, 101, 102, 106, 107 and 108 TFEU shall read Articles 49, 53, 54, 59, 61 and 62 of the EEA Agreement, respectively.

(b) Article 14(3) to (5) shall not apply to the EFTA States insofar as it concerns agreements between those States and third countries.

(c) In Article 40(2), the words "and the EFTA Surveillance Authority" shall be inserted after the word "Commission".

(d) In Article 15, the following paragraph shall be added:

(e) "7. The obligation set out in paragraph 5 shall not apply to Liechtenstein insofar as an EU Member State has provided, for a given year, data to the Commission that include the territory of Liechtenstein. It shall apply to all other data covered by paragraph 5".

(f) In Article 27(1), the words "or, as regards Norway, Norwegian and an official language of the Union," shall be inserted after the words "two official languages of the Union".'

2. The following points are inserted after point 37 ai (Commission Regulation (EU) No 1304/2014):

'37aj. **32015 R 0171:** Commission Implementing Regulation (EU) 2015/171 of 4 February 2015 on certain aspects of the procedure of licensing railway undertakings (OJ L 29, 5.2.2015, p. 3).

37ak. **32015 R 0429:** Commission Implementing Regulation (EU) 2015/429 of 13 March 2015 setting out the modalities to be followed for the application of the charging for the cost of noise effects (OJ L 70, 14.3.2015, p. 36).

37al. **32015 R 0909:** Commission Implementing Regulation (EU) 2015/909 of 12 June 2015 on the modalities for the calculation of the cost that is directly incurred as a result of operating the train service (OJ L 148, 13.6.2015, p. 17).

37am. **32015 R 1100:** Commission Implementing Regulation (EU) 2015/1100 of 7 July 2015 on the reporting obligations of the Member States in the framework of rail market monitoring (OJ L 181, 9.7.2015, p. 1).

37an. **32016 R 0545:** Commission Implementing Regulation (EU) 2016/545 of 7 April 2016 on procedures and criteria concerning framework agreements for the allocation of rail infrastructure capacity (OJ L 94, 8.4.2016, p. 1).

37ao. **32015 D 2075:** Commission Delegated Decision (EU) 2017/2075 of 4 September 2017 replacing Annex VII to Directive 2012/34/EU of the European Parliament and of the Council establishing a single European railway area (OJ L 295, 14.11.2017, p. 69).

37ap. **32017 R 2177:** Commission Implementing Regulation (EU) 2017/2177 of 22 November 2017 on access to service facilities and rail-related services (OJ L 307, 23.11.2017, p. 1).

37aq. **32018 R 1795:** Commission Implementing Regulation (EU) 2018/1795 of 20 November 2018 laying down procedure and criteria for the application of the economic equilibrium test pursuant to Article 11 of Directive 2012/34/EU of the European Parliament and of the Council (OJ L 294, 21.11.2018, p. 5).'

3. The text of points 41b (Directive 2001/14/EC of the European Parliament and of the Council) and 42a (Council Directive 95/18/EC) shall be deleted.

4. The text of point 42aa (Implementing Regulation (EU) No 869/2014) shall be deleted with effect from 12 December 2020.

Article 2

The texts of Directives 2012/34/EU and (EU) 2016/2370, Implementing Regulations (EU) 2015/171, (EU) 2015/429, (EU) 2015/909, (EU) 2015/1100, (EU) 2016/545, (EU) 2017/2177 and (EU) 2018/1795, and Delegated Decision (EU) 2017/2075 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.]

[…]