Council of the European Union

Brussels, 10 September 2021
(OR. en)

Interinstitutional File:
2021/0288(NLE)

11743/21
ADD 2

AELE 92
EEE 76
N 115
ISL 71
FL 71
TRANS 536
MI 661

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 II
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 II.

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

EUROPEAN
COMMISSION

Brussels, 10.9.2021
COM(2021) 546 final

ANNEX 2

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 2

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) Regulation (EU) 2016/796 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Railways and repealing Regulation (EC) No 881/2004[1] is to be incorporated into the EEA Agreement.

(2) Regulation (EU) 2016/2338 of the European Parliament and of the Council of 14 December 2016 amending Regulation (EC) No 1370/2007 concerning the opening of the market for domestic passenger transport services by rail[2] is to be incorporated into the EEA Agreement.

(3) Commission Regulation (EU) 2019/554 of 5 April 2019 amending Annex VI to Directive 2007/59/EC of the European Parliament and of the Council on the certification of train drivers operating locomotives and trains on the railway system in the Community[3] is to be incorporated into the EEA Agreement.

(4) Commission Regulation (EU) No 1305/2014 of 11 December 2014 on the technical specification for interoperability relating to the telematics applications for freight subsystem of the rail system in the European Union and repealing the Regulation (EC) No 62/2006[4] is to be incorporated into the EEA Agreement.

(5) Commission Delegated Regulation (EU) 2018/761 of 16 February 2018 establishing common safety methods for supervision by national safety authorities after the issue of a single safety certificate or a safety authorisation pursuant to Directive (EU) 2016/798 of the European Parliament and of the Council and repealing Commission Regulation (EU) No 1077/2012[5] is to be incorporated into the EEA Agreement.

---

1 OJ L 138, 26.5.2016, p. 1.
2 OJ L 354, 23.12.2016, p. 22.
3 OJ L 97, 8.4.2019, p. 1.
4 OJ L 356, 12.12.2014, p. 438.
5 OJ L 129, 25.5.2018, p. 16.

(6) Commission Delegated Regulation (EU) 2018/762 of 8 March 2018 establishing common safety methods on safety management system requirements pursuant to Directive (EU) 2016/798 of the European Parliament and of the Council and repealing Commission Regulations (EU) No 1158/2010 and (EU) No 1169/2010[6] is to be incorporated into the EEA Agreement.

(7) Commission Implementing Regulation (EU) 2017/6 of 5 January 2017 on the European Rail Traffic Management System European deployment plan[7] is to be incorporated into the EEA Agreement.

(8) Commission Implementing Regulation (EU) 2018/278 of 23 February 2018 amending the Annex to Regulation (EU) No 1305/2014 as regards the structure of the messages, data and message model, Wagon and Intermodal Unit Operating Database, and to adopt an IT standard for the communication layer of the Common Interface[8] is to be incorporated into the EEA Agreement.

(9) Commission Implementing Regulation (EU) 2018/545 of 4 April 2018 establishing practical arrangements for the railway vehicle authorisation and railway vehicle type authorisation process pursuant to Directive (EU) 2016/797 of the European Parliament and of the Council[9] is to be incorporated into the EEA Agreement.

(10) Commission Implementing Regulation (EU) 2018/763 of 9 April 2018 establishing practical arrangements for issuing single safety certificates to railway undertakings pursuant to Directive (EU) 2016/798 of the European Parliament and of the Council, and repealing Commission Regulation (EC) No 653/2007[10] is to be incorporated into the EEA Agreement.

(11) Commission Implementing Regulation (EU) 2018/764 of 2 May 2018 on the fees and charges payable to the European Union Agency for Railways and their conditions of payment[11] is to be incorporated into the EEA Agreement.

(12) Commission Implementing Regulation (EU) 2018/867 of 13 June 2018 laying down the rules of procedure of the Board(s) of Appeal of the European Union Agency for Railways[12] is to be incorporated into the EEA Agreement.

(13) Commission Implementing Regulation (EU) 2018/868 of 13 June 2018 amending Regulation (EU) No 1301/2014 and Regulation (EU) No 1302/2014 as regards provisions on energy measuring system and data collecting system[13] is to be incorporated into the EEA Agreement.

(14) Commission Implementing Regulation (EU) 2019/250 of 12 February 2019 on the templates for 'EC' declarations and certificates for railway interoperability constituents and subsystems, on the model of declaration of conformity to an authorised railway vehicle type and on the 'EC' verification procedures for

---

6 OJ L 129, 25.5.2018, p. 26.
7 OJ L 3, 6.1.2017, p. 6.
8 OJ L 54, 24.2.2018, p. 11.
9 OJ L 90, 6.4.2018, p. 66.
10 OJ L 129, 25.5.2018, p. 49.
11 OJ L 129, 25.5.2018, p. 68.
12 OJ L 149, 14.6.2018, p. 3.
13 OJ L 149, 14.6.2018, p. 16.

subsystems in accordance with Directive (EU) 2016/797 of the European Parliament and of the Council and repealing Commission Regulation (EU) No 201/2011[14] is to be incorporated into the EEA Agreement.

(15) Commission Implementing Regulation (EU) 2019/772 of 16 May 2019 amending Regulation (EU) No 1300/2014 as regards inventory of assets with a view to identifying barriers to accessibility, providing information to users and monitoring and evaluating progress on accessibility[15] is to be incorporated into the EEA Agreement.

(16) Commission Implementing Regulation (EU) 2019/773 of 16 May 2019 on the technical specification for interoperability relating to the operation and traffic management subsystem of the rail system within the European Union and repealing Decision 2012/757/EU[16] is to be incorporated into the EEA Agreement.

(17) Commission Implementing Regulation (EU) 2019/774 of 16 May 2019 amending Regulation (EU) No 1304/2014 as regards application of the technical specification for interoperability relating to the subsystem 'rolling stock — noise' to the existing freight wagons[17] is to be incorporated into the EEA Agreement.

(18) Commission Implementing Regulation (EU) 2019/775 of 16 May 2019 amending Regulation (EU) No 454/2011 as regards Change Control Management[18] is to be incorporated into the EEA Agreement.

(19) Commission Implementing Regulation (EU) 2019/776 of 16 May 2019 amending Commission Regulations (EU) No 321/2013, (EU) No 1299/2014, (EU) No 1301/2014, (EU) No 1302/2014, (EU) No 1303/2014 and (EU) 2016/919 and Commission Implementing Decision 2011/665/EU as regards the alignment with Directive (EU) 2016/797 of the European Parliament and of the Council and the implementation of specific objectives set out in Commission Delegated Decision (EU) 2017/1474[19] is to be incorporated into the EEA Agreement.

(20) Commission Implementing Regulation (EU) 2019/777 of 16 May 2019 on the common specifications for the register of railway infrastructure and repealing Implementing Decision 2014/880/EU[20] is to be incorporated into the EEA Agreement.

(21) Commission Implementing Regulation (EU) 2019/778 of 16 May 2019 amending Regulation (EU) No 1305/2014 as regards Change Control Management[21] is to be incorporated into the EEA Agreement.

(22) Commission Implementing Regulation (EU) 2019/779 of 16 May 2019 laying down detailed provisions on a system of certification of entities in charge of maintenance of vehicles pursuant to Directive (EU) 2016/798 of the European Parliament and of the

---

14 OJ L 42, 13.2.2019, p. 9.
15 OJ L 139I , 27.5.2019, p. 1.
16 OJ L 139I, 27.5.2019, p. 5.
17 OJ L 139I, 27.5.2019, p. 89.
18 OJ L 139I, 27.5.2019, p. 103.
19 OJ L 139I, 27.5.2019, p. 108.
20 OJ L 139I, 27.5.2019, p. 312.
21 OJ L 139I, 27.5.2019, p. 356.

Council and repealing Commission Regulation (EU) No 445/2011[22] is to be incorporated into the EEA Agreement.

(23) Commission Implementing Regulation (EU) 2020/387 of 9 March 2020 amending Regulations (EU) No 321/2013, (EU) No 1302/2014 and (EU) 2016/919 as regards the extension of the area of use and transition phases[23] is to be incorporated into the EEA Agreement.

(24) Commission Implementing Regulation (EU) 2020/424 of 19 March 2020 on submitting information to the Commission as regards non-application of technical specifications for interoperability in accordance with Directive (EU) 2016/797[24] is to be incorporated into the EEA Agreement.

(25) Directive (EU) 2016/797 of the European Parliament and of the Council of 11 May 2016 on the interoperability of the rail system within the European Union (recast)[25] is to be incorporated into the EEA Agreement.

(26) Directive (EU) 2016/798 of the European Parliament and of the Council of 11 May 2016 on railway safety (recast)[26], as corrected by OJ L 59, 7.3.2017, p. 41 and by OJ L 317, 9.12.2019, p. 144-144, is to be incorporated into the EEA Agreement.

(27) Commission Directive 2014/38/EU of 10 March 2014 amending Annex III to Directive 2008/57/EC of the European Parliament and of the Council as far as noise pollution is concerned[27] is to be incorporated into the EEA Agreement.

(28) Commission Implementing Decision (EU) 2018/1614 of 25 October 2018 laying down specifications for the vehicle registers referred to in Article 47 of Directive (EU) 2016/797 of the European Parliament and of the Council and amending and repealing Commission Decision 2007/756/EC[28] is to be incorporated into the EEA Agreement.

(29) Regulation (EU) No 1305/2014 repeals Commission Regulation (EC) No 62/2006[29], which is incorporated in the EEA Agreement and which is consequently to be repealed under the EEA Agreement.

(30) Regulation (EU) 2016/796 repeals Regulation (EC) No 881/2004[30] which is incorporated in the EEA Agreement and which is consequently to be repealed under the EEA Agreement.

(31) Delegated Regulation (EU) 2018/761 repeals Commission Regulation (EU) No 1077/2012[31], which is incorporated into the EEA Agreement and which is consequently to be repealed under the EEA Agreement.

---

22 OJ L 139I, 27.5.2019, p. 360.
23 OJ L 73, 10.3.2020, p. 6.
24 OJ L 84, 20.3.2020, p. 20.
25 OJ L 138, 26.5.2016, p. 44.
26 OJ L 138, 26.5.2016, p. 102.
27 OJ L 70, 11.3.2014. p. 20.
28 OJ L 268, 26.10.2018, p. 53.
29 OJ L 13, 18.1.2006, p. 1.
30 OJ L 164, 30.4.2004, p. 1.
31 OJ L 320, 17.11.2012, p. 3.

(32) Delegated Regulation (EU) 2018/762 repeals, with effect from 16 June 2025, Commission Regulations (EU) No 1158/2010[32] and (EU) No 1169/2010[33], which are incorporated into the EEA Agreement and which are consequently to be repealed under the EEA Agreement with effect from 16 June 2025.

(33) Implementing Regulation (EU) 2018/763 repeals Commission Regulation (EC) No 653/2007[34], which is incorporated into the EEA Agreement and which is consequently to be repealed under the EEA Agreement.

(34) Implementing Decision (EU) 2018/1614 repeals, with effect from 16 June 2021, Commission Decision 2007/756/EC[35], which is incorporated into the EEA Agreement and which is consequently to be repealed under the EEA Agreement with effect from 16 June 2021.

(35) Implementing Regulation (EU) 2019/250 repeals Commission Regulation (EU) No 201/2011[36], which is incorporated into the EEA Agreement and which is consequently to be repealed under the EEA Agreement.

(36) Implementing Regulation (EU) 2019/773 repeals, with effect from 16 June 2024, Commission Decision 2012/757/EU[37], which is incorporated into the EEA Agreement and which is consequently to be repealed under the EEA Agreement with effect from 16 June 2024.

(37) Implementing Regulation (EU) 2019/777 repeals Commission Implementing Decision 2014/880/EU[38], which is incorporated into the EEA Agreement and which is consequently to be repealed under the EEA Agreement.

(38) Implementing Regulation (EU) 2019/779 repeals, with effect from 16 June 2020, Commission Regulation (EU) No 445/2011[39], which is incorporated into the EEA Agreement and which is consequently to be repealed under the EEA Agreement with effect from 16 June 2020.

(39) Directive (EU) 2016/797 repeals, with effect from 16 June 2020, Directive 2008/57/EC of the European Parliament and of the Council[40], which is incorporated into the EEA Agreement and which is consequently to be repealed under the EEA Agreement with effect from 16 June 2020.

(40) Directive (EU) 2016/798 repeals, with effect from 16 June 2020, Directive 2004/49/EC of the European Parliament and of the Council [41], which is incorporated into the EEA Agreement and which is consequently to be repealed under the EEA Agreement with effect from 16 June 2020.

---

32 OJ L 326, 10.12.2010, p. 11.
33 OJ L 327, 11.12.2010, p. 13.
34 OJ L 153, 14.6.2007, p. 9.
35 OJ L 305, 23.11.2007, p. 30.
36 OJ L 57, 2.3.2011, p. 8.
37 OJ L 345, 15.12.2012, p. 1.
38 OJ L 356, 12.12.2014, p. 489.
39 OJ L 122, 11.5.2011, p. 22.
40 OJ L 191, 18.7.2008, p. 1.
41 OJ L 164, 30.4.2004, p. 44.

(41) 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 following is added in point 4a (Regulation (EC) No 1370/2007 of the European Parliament and of the Council):

‘, as amended by:

– **32016 R 2338**: Regulation (EU) 2016/2338 of the European Parliament and of the Council of 14 December 2016 (OJ L 354, 23.12.2016, p.22).’

2. The following is added in point 37ai (Commission Regulation (EU) No 1304/2014):

‘, as amended by:

– **32019 R 0774**: Commission Implementing Regulation (EU) 2019/774 of 16 May 2019 (OJ L 139I, 27.5.2019, p. 89).’

3. The following adaptations are added in point 37ai (Commission Regulation (EU) No 1304/2014):

‘(c) In section 7.3.2.4(b) of the Annex, the words “Norway and” shall be inserted before the word “Sweden”.

(d) In first subparagraph of section 7.4.1(b) of the Annex, the word “, Norway” shall be inserted before the words “and Sweden” and the word “, Norwegian” shall be inserted before the words “and Swedish”.’

4. The following indent is added in point 37d (Directive 2008/57/EC of the European Parliament and of the Council):

‘- **32014 L 0038**: Commission Directive 2014/38/EU of 10 March 2014 (OJ L 70, 11.3.2014, p. 20).’

5. The following indent is added in point 37da (Commission Decision 2007/756/EC):

‘- **32018 D 1614**: Commission Implementing Decision (EU) 2018/1614 of 25 October 2018 (OJ L 268, 26.10.2018, p. 53).’

6. The following indent is added in points 37dba (Commission Regulation (EU) No 1303/2014) and 37n (Commission Regulation (EU) No 321/2013):

‘- **32019 R 0776**: Commission Implementing Regulation (EU) 2019/776 of 16 May 2019 (OJ L 139I, 27.5.2019, p. 108).’

7. The following indent is added in point 37dj (Commission Regulation (EU) No 454/2011):

‘- **32019 R 0775**: Commission Implementing Regulation (EU) 2019/775 of 16 May 2019 (OJ L 139I, 27.5.2019, p. 103).’

8. The following is added in points 37dk (Commission Implementing Decision 2011/665/EU), 37i (Commission Regulation (EU) 2016/919) and 37o (Commission Regulation (EU) No 1299/2014):

‘, as amended by:

– **32019 R 0776**: Commission Implementing Regulation (EU) 2019/776 of 16 May 2019 (OJ L 139I, 27.5.2019, p. 108).’

9. The following is added in points 37dn (Commission Regulation (EU) No 1301/2014) and 37do (Commission Regulation (EU) No 1302/2014):

‘, as amended by:

– **32018 R 0868**: Commission Implementing Regulation (EU) 2018/868 of 13 June 2018 (OJ L 149, 14.6.2018, p. 16).

– **32019 R 0776**: Commission Implementing Regulation (EU) 2019/776 of 16 May 2019 (OJ L 139I, 27.5.2019, p. 108).’

10. The following indent is added in points 37do (Commission Regulation (EU) No 1302/2014), 37i (Commission Regulation (EU) 2016/919) and 37n (Commission Regulation (EU) No 321/2013):

‘- **32020 R 0387**: Commission Implementing Regulation (EU) 2020/387 of 9 March 2020 (OJ L 73, 10.3.2020, p. 6).’

11. The text of point 37h (Commission Regulation (EC) No 62/2006) is replaced by the following:

‘**32014 R 1305**: Commission Regulation (EU) No 1305/2014 of 11 December 2014 on the technical specification for interoperability relating to the telematics applications for freight subsystem of the rail system in the European Union and repealing the Regulation (EU) No 62/2006 (OJ L 356, 12.12.2014, p. 438), as amended by:

– **32018 R 0278**: Commission Implementing Regulation (EU) 2018/278 of 23 February 2018 (OJ L 54, 24.2.2018, p. 11),

– **32019 R 0778**: Commission Implementing Regulation (EU) 2019/778 of 16 May 2019 (OJ L 139I, 27.5.2019, p. 356).

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

The following paragraph shall be added after section 7.1.4.(3) of the Annex:

“4. The EFTA Surveillance Authority shall have observer status in the Steering Committee.”’

12. The following point is inserted after point 37ia (Commission Decision 2012/463/EU):

'37ib. **32017 R 0006**: Commission Implementing Regulation (EU) 2017/6 of 5 January 2017 on the European Rail Traffic Management System European deployment plan (OJ L 3, 6.1.2017, p. 6).'

13. The following is added in point 37ma (Commission Regulation (EU) No 1300/2014):

', as amended by:

– **32019 R 0772**: Commission Implementing Regulation (EU) 2019/772 of 16 May 2019 (OJ L 139I, 27.5.2019, p. 1).'

14. The following is inserted after point 37o (Commission Regulation (EU) No 1299/2014):

'37p. **32016 L 0797**: Directive (EU) 2016/797 of the European Parliament and of the Council of 11 May 2016 on the interoperability of the rail system within the European Union (recast) (OJ L 138, 26.5.2016, p. 44).

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

(a) In Article 11(2), the words "or, as regards the EFTA States, the EFTA Surveillance Authority" shall be inserted after the words "the Commission".

(b) The following paragraphs shall be added in Article 51:

"4. The EFTA States shall participate fully in the committee [and shall within it have the same rights and obligations as EU Member States], except for the right to vote.

5. The Chairman of the committee may invite the EFTA Surveillance Authority to participate as an observer, without voting rights."

37pa. **32018 R 0545**: Commission Implementing Regulation (EU) 2018/545 of 4 April 2018 establishing practical arrangements for the railway vehicle authorisation and railway vehicle type authorisation process pursuant to Directive (EU) 2016/797 of the European Parliament and of the Council (OJ L 90, 6.4.2018, p. 66).

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

In Articles 8(1) and 10(1), the words ", Icelandic and Norwegian" shall be added after the words "the official languages of the Union".

37pb. **32018 D 1614**: Commission Implementing Decision (EU) 2018/1614 of 25 October 2018 laying down specifications for the vehicle registers referred to in Article 47 of Directive (EU) 2016/797 of the European Parliament and of the

Council and amending and repealing Commission Decision 2007/756/EC (OJ L 268, 26.10.2018, p. 53).

37pc. **32019 R 0250**: Commission Implementing Regulation (EU) 2019/250 of 12 February 2019 on the templates for 'EC' declarations and certificates for railway interoperability constituents and subsystems, on the model of declaration of conformity to an authorised railway vehicle type and on the 'EC' verification procedures for subsystems in accordance with Directive (EU) 2016/797 of the European Parliament and of the Council and repealing Commission Regulation (EU) No 201/2011 (OJ L 42, 13.2.2019, p. 9).

37pd. **32019 R 0773**: Commission Implementing Regulation (EU) 2019/773 of 16 May 2019 on the technical specification for interoperability relating to the operation and traffic management subsystem of the rail system within the European Union and repealing Decision 2012/757/EU (OJ L 139I, 27.5.2019, p. 5).

37pe. **32019 R 0777**: Commission Implementing Regulation (EU) 2019/777 of 16 May 2019 on the common specifications for the register of railway infrastructure and repealing Implementing Decision 2014/880/EU (OJ L 139I, 27.5.2019, p. 312).

37pf. **32020 R 0424**: Commission Implementing Regulation (EU) 2020/424 of 19 March 2020 on submitting information to the Commission as regards non-application of technical specifications for interoperability in accordance with Directive (EU) 2016/797 (OJ L 84, 20.3.2020, p. 20).'

15. The text of point 42f (Regulation (EC) No 881/2004 of the European Parliament and of the Council) is replaced by the following:

'**32016 R 0796**: Regulation (EU) 2016/796 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Railways and repealing Regulation (EC) No 881/2004 (OJ L 138, 26.5.2016, p. 1).

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

(a) Notwithstanding the provisions of Protocol 1 to the Agreement, the term 'Member State(s)' and other terms referring to their public entities contained in the Regulation shall be understood to include, in addition to its meaning in the Regulation, the EFTA States and their public entities.

(b) As regards the EFTA States, the EFTA Surveillance Authority or the Standing Committee of the EFTA States, as the case may be, may, as and when appropriate, request assistance of the Agency in the performance of their respective tasks.

(c) The EFTA States shall participate fully in the working parties and groups established by the Agency and shall within them have the same rights and obligations as EU Member States, except for the right to vote.

(d) The following shall be added to Article 11(4):

"When the visits have been carried out in an EFTA State, the Agency shall also send the report to the EFTA Surveillance Authority."

(e) In Articles 25(2), 25(3), 26(2), 26(3), 26(5), 27(2), 33(3), 33(5), 33(7), 34(4), 34(5) and 34(6) the words "or, as regards the EFTA States, the EFTA Surveillance Authority," shall be inserted after the words "the Commission".

(f) (f) In Articles 29(2), 29(3), 30(3) and 32(2) the words "and the EFTA Surveillance Authority" shall be inserted after the words "the Commission".

(g) (g) The following shall be added to Article 35(5):

"The Agency shall, at the EFTA Surveillance Authority's request, provide reports on the state of implementation and application of provisions of the EEA Agreement concerning railway safety and interoperability in a given EFTA State."

(h) In Article 38(7) the words "and the EFTA Surveillance Authority" shall be inserted after the words "the Commission".

(i) The following paragraphs shall be added to Article 47:

"6. The EFTA States shall participate fully in the Management Board and shall within it have the same rights and obligations as EU Member States, except for the right to vote.

7. The EFTA Surveillance Authority shall have one representative on the Management Board, without the right to vote.

The EFTA Surveillance Authority shall appoint a member of the Management Board as well as an alternate who shall replace the member in his/her absence."

(j) In Article 51(1)(a) the words ", the EFTA Surveillance Authority" shall be inserted after the words "the Commission".

(k) The following paragraph shall be added to Article 55:

"7. Nationals of the EFTA States shall be eligible as members, including Chairpersons, of the Boards of Appeal. When the Commission draws up the list of persons referred to in paragraph 3(a), it shall also consider suitable persons of EFTA States' nationalities."

(l) The following paragraph shall be added to Article 64:

"11. The EFTA States shall participate in the financial contribution from the Union referred to in paragraph 2(a). For this purpose, the procedures laid down in Article 82(1)(a) and Protocol 32 to the EEA Agreement shall apply *mutatis mutandis*."

(m) The following paragraph shall be added in Article 67:

"4. By way of derogation from Articles 12(2)(a) and 82(3)(a) of the Conditions of Employment of Other Servants, nationals of the EFTA States enjoying their full rights as citizens may be engaged under contract by the Executive Director of the Agency."

By way of derogation from Articles 12(2)(e), 82(3)(e) and 85(3) of the Conditions of Employment of Other Servants, the languages referred to in Article 129(1) of the EEA Agreement shall be considered by the Agency, in respect of its staff, as languages of the Union referred to in Article 55(1) of the Treaty on European Union."

(n) The following shall be added to Article 70:

"The EFTA States shall grant privileges and immunities to the Agency equivalent to those contained in the Protocol on Privileges and Immunities of the European Union."

(o) The following shall be added to Article 74:

"Documents which an EFTA State or a person subject to the jurisdiction of an EFTA State sends to the Agency may be drafted in any one of the languages referred to in Article 129(1) of the EEA Agreement selected by the sender. The reply shall be drafted in the same language."

(p) The following shall be added to paragraph 1 of Article 77:

"Regulation (EC) No 1049/2001 of the European Parliament and the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents shall, for the application of this Regulation, apply to any documents of the Agency regarding the EFTA States as well."

(q) The following shall be added to Article 78:

"For the application of this Regulation, the Agency shall apply the principles contained in the Commission's security rules for protecting European Union classified Information (EUCI) and sensitive non-classified information, as set out in Commission Decision (EU, Euratom) 2015/444 to such information regarding the EFTA States as well."'

16. The following is inserted after point 42f (Regulation (EU) 2016/796 of the European Parliament and of the Council):

'42fa. **32018 R 0764**: Commission Implementing Regulation (EU) 2018/764 of 2 May 2018 on the fees and charges payable to the European Union Agency for Railways and their conditions of payment (OJ L 129, 25.5.2018, p. 68).

42fb. **32018 R 0867**: Commission Implementing Regulation (EU) 2018/867 of 13 June 2018 laying down the rules of procedure of the Board(s) of Appeal of the European Union Agency for Railways (OJ L 149, 14.6.2018, p. 3).

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

In Article 23 the words ", Icelandic and Norwegian" shall be added after the words "the Union".'

17. The following indent is added in point 42g (Directive 2007/59/EC of the European Parliament and of the Council):

'- **32019 R 0554**: Commission Regulation (EU) 2019/554 of 5 April 2019 (OJ L 97, 8.4.2019, p. 1).'

18. The following points are inserted after point 42h (Regulation (EC) No 1371/2007 of the European Parliament and of the Council):

'42i. **32016 L 0798**: Directive (EU) 2016/798 of the European Parliament and of the Council of 11 May 2016 on railway safety (recast) (OJ L 138, 26.5.2016, p. 102), as corrected by OJ L 59, 7.3.2017, p. 41 and by OJ L 317, 9.12.2019, p. 144-144.

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

In the second sentence of Article 15(3), the words "or, as regards the EFTA States, the EFTA Surveillance Authority" shall be inserted after the words "the Commission".

42ia. **32018 R 0761**: Commission Delegated Regulation (EU) 2018/761 of 16 February 2018 establishing common safety methods for supervision by national safety authorities after the issue of a single safety certificate or a safety authorisation pursuant to Directive (EU) 2016/798 of the European Parliament and of the Council and repealing Commission Regulation (EU) No 1077/2012 (OJ L 129, 25.5.2018, p. 16).

42ib. **32018 R 0762**: Commission Delegated Regulation (EU) 2018/762 of 8 March 2018 establishing common safety methods on safety management system requirements pursuant to Directive (EU) 2016/798 of the European Parliament and of the Council and repealing Commission Regulations (EU) No 1158/2010 and (EU) No 1169/2010 (OJ L 129, 25.5.2018, p. 26).

42ic. **32018 R 0763**: Commission Implementing Regulation (EU) 2018/763 of 9 April 2018 establishing practical arrangements for issuing single safety certificates to railway undertakings pursuant to Directive (EU) 2016/798 of the European Parliament and of the Council, and repealing Commission Regulation (EC) No 653/2007 (OJ L 129, 25.5.2018, p. 49).

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

In Article 5(1), the words ", Icelandic or Norwegian" shall be added after the words "the official languages of the Union".

42id. **32019 R 0779**: Commission Implementing Regulation (EU) 2019/779 of 16 May 2019 laying down detailed provisions on a system of certification of entities in charge of maintenance of vehicles pursuant to Directive (EU)

2016/798 of the European Parliament and of the Council and repealing Commission Regulation (EU) No 445/2011 (OJ L 139I, 27.5.2019, p. 360).'

19. The texts of points 37dm (Commission Implementing Decision 2014/880/EU), 37df (Commission Regulation (EU) No 201/2011), 42ea (Commission Regulation (EC) No 653/2007), 42eh (Commission Regulation (EU) No 1077/2012), 37d (Directive 2008/57/EC of the European Parliament and of the Council), 42e (Directive 2004/49/EC of the European Parliament and of the Council) and 42eg (Commission Regulation (EU) No 445/2011) are deleted.

20. The text of point 37da (Commission Decision 2007/756/EC) shall be deleted with effect from 16 June 2021.

21. The text of point 37dl (Commission Decision 2012/757/EU) shall be deleted with effect from 16 June 2024.

22. The text of points 42ee (Commission Regulation (EU) No 1169/2010) and 42ef (Commission Regulation (EU) No 1158/2010) shall be deleted with effect from 16 June 2025.

Article 2

The texts of Regulations (EU) 2016/796, (EU) 2016/2338, (EU) 2019/554 and (EU) No 1305/2014, Commission Delegated Regulations (EU) 2018/761 and (EU) 2018/762, Commission Implementing Regulations (EU) 2017/6, (EU) 2018/278, (EU) 2018/545, (EU) 2018/763, (EU) 2018/764, (EU) 2018/867, (EU) 2018/868, (EU) 2019/250, (EU) 2019/772, (EU) 2019/773, (EU) 2019/774, (EU) 2019/775, (EU) 2019/776, (EU) 2019/777, (EU) 2019/778, (EU) 2019/779, (EU) 2020/387, (EU) 2020/424, Directives (EU) 2016/797 and (EU) 2016/798, as corrected by OJ L 59, 7.3.2017, p. 41 and OJ L 317, 9.12.2019, p. 144, Commission Directive 2014/38/EU and Commission Implementing Decision (EU) 2018/1614, 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*, or on the day of the entry into force of Decision of the EEA Joint committee No …/…[42] [incorporating Directive (EU) 2012/34/EU], whichever is the later.

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, […].

---

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

42 OJ L ...

For the EEA Joint Committee

The President

[…]

The Secretaries

To the EEA Joint Committee

[…]

Joint Declaration by the Contracting Parties

to Decision of the Joint Committee No x/2020 of [date] incorporating Regulation (EU) 2016/796 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Railways and repealing Regulation (EC) No 881/2004 into the EEA Agreement

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

Bearing in mind the two pillar system of the EEA Agreement and with regard to the transfer of power to the European Union Agency for Railways to issue vehicle authorisations and single safety certificates, and approve European Rail Traffic Management System trackside equipment projects, for applicants in the EFTA States, as well as the arbitration procedure provided for in disputes between national safety authorities of the EFTA States and the European Union Agency for Railways, the Contracting Parties recognise that this solution does not create a precedence for future adaptations of EU acts to be incorporated into the EEA Agreement.