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PROPOSAL

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	15 October 2021
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2021) 635 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 on cooperation in specific fields outside the four freedoms and Protocol 37 containing the list provided for in Article 101 to the EEA Agreement (Space Programme of the Union)

Delegations will find attached document COM(2021) 635 final - ANNEX I.

Encl.: COM(2021) 635 final - ANNEX I

EUROPEAN
COMMISSION

Brussels, 15.10.2021
COM(2021) 635 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 on cooperation in specific fields outside the four freedoms and Protocol 37 containing the list provided for in Article 101 to the EEA Agreement

(Space Programme of the Union)

ANNEX

DECISION OF THE EEA JOINT COMMITTEE

No […]

of […]

amending Protocol 31 (on cooperation in specific fields outside the four freedoms) and Protocol 37 (containing the list provided for in Article 101) to the EEA Agreement,

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) 2021/696 of the European Parliament and of the Council of 28 April 2021 establishing the Union Space Programme and the European Union Agency for the Space Programme and repealing Regulations (EU) No 912/2010, (EU) No 1285/2013 and (EU) No 377/2014 and Decision No 541/2014/EU[1].

(2) It is appropriate that the participation of EFTA States in the activities resulting from Regulation (EU) 2021/696 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) The Contracting Parties acknowledge the existing formal cooperation in the various EU space programmes. They wish to build on this strong partnership and to extend the cooperation to all relevant components of the new space programme.

[1] OJ L 170, 12.5.2021, p. 69.

(6) As regards the participation of Norway, account should also be taken of the Cooperation Agreement on Satellite Navigation between the European Union and its Member States and Norway[2].

(7) Protocols 31 and 37 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 inserted after paragraph 8d of Article 1 of Protocol 31 to the EEA Agreement:

'8e. (a) The EFTA States shall, as from 1 January 2021, participate in the activities which may result from the following Union act and in the European Union Agency for the Space Programme, hereafter referred to as the 'Agency' with the exception of the GOVSATCOM and SSA SST activities, as set up by the following Union act:

- **32021 R 0696**: Regulation (EU) 2021/696 of the European Parliament and of the Council of 28 April 2021 establishing the Union Space Programme and the European Union Agency for the Space Programme and repealing Regulations (EU) No 912/2010, (EU) No 1285/2013 and (EU) No 377/2014 and Decision No 541/2014/EU (OJ L 170, 12.5.2021, p. 69).

(b) The EFTA States shall contribute financially to the activities referred to under (a) in accordance with Article 82(1)(a) of and Protocol 32 to the Agreement.

(c) The financial contribution, referred to under (b), shall also cover the cost of the inclusion of the EFTA States in the EGNOS mission and the extension of the EGNOS services coverage to the territories of the participating EFTA States. Such coverage extension shall be subject to technical feasibility and shall not delay the extension of the geographical coverage of the EGNOS system throughout the EU Member States' territories geographically located in Europe.

(d) The costs incurred for activities the implementation of which starts after 1 January 2021 may be considered eligible as from the starting date of the action fixed in the grant agreement or the grant decision concerned, under the conditions set out therein, 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.

(e) The eligible EFTA States shall participate fully, without the right to vote, in the Administrative Board of the Agency.

[2] OJ L 283, 29.10.2010, p. 12.

(f) The eligible EFTA States shall participate, without the right to vote, in the Security Accreditation Board of the Agency, for relevant parts of the programme and restricted in compliance with the need-to-know policy established by the programme.

(g) The Agency shall have legal personality. It shall enjoy in all the States of the Contracting Parties the most extensive legal capacity accorded to legal persons under their law.

(h) The EFTA States shall grant privileges and immunities to the Agency and its staff equivalent to those contained in the Protocol on Privileges and Immunities of the European Union.

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

(j) By way of derogation from Articles 12(2)(e), 82(3)(e) and 85(3) of the Conditions of Employment of Other Servants of the European Union, 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.

(k) By virtue of Article 79(3) of the Agreement, Part VII (Institutional Provisions) of the Agreement, with the exception of Sections 1 and 2 of Chapter 3, shall apply to this paragraph.

(l) Regulation (EC) No 1049/2001 of the European Parliament and of 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.

(m) The eligible EFTA States shall participate fully, without the right to vote, in the Union committees which assist the European Commission in the management, development and implementation of the Galileo, EGNOS, Copernicus components and SSA SWE and SSA NEO sub-components of the activities referred to under (a).

The participation in the security configuration of these committees shall be restricted in compliance with the need-to-know policy established by the programme.

(n) Liechtenstein shall be exempted from the participation in, and the financial contribution to, this programme.

(o) Iceland shall participate in and financially contribute to the following activities of the programme: EGNOS, Copernicus, and the SSA sub-components SWE and NEO .'

Article 2

Protocol 37 to the EEA Agreement shall be amended as follows:

1. The texts of points 36 and 37 shall be deleted;

2. the following point(s) shall be inserted:

'43. The Security Accreditation Board of the European Union Agency for the Space Programme (Regulation (EU) 2021/696 of the European Parliament and of the Council).

44. The Administrative Board of the European Union Agency for the Space Programme (Regulation (EU) 2021/696 of the European Parliament and of the Council).'.

Article 3

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 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.]