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ENER 605
TRANS 485

LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject:	Draft DECISION OF THE EEA JOINT COMMITTEE amending Annex XX (Environment) to the EEA Agreement

DRAFT

DECISION OF THE EEA JOINT COMMITTEE
No …

of …

amending Annex XX (Environment) 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) 2023/957 of the European Parliament and of the Council of 10 May 2023 amending Regulation (EU) 2015/757 in order to provide for the inclusion of maritime transport activities in the EU Emissions Trading System and for the monitoring, reporting and verification of emissions of additional greenhouse gases and emissions from additional ship types[1] is to be incorporated into the EEA Agreement.

(2) Directive (EU) 2023/959 of the European Parliament and of the Council of 10 May 2023 amending Directive 2003/87/EC establishing a system for greenhouse gas emission allowance trading within the Union and Decision (EU) 2015/1814 concerning the establishment and operation of a market stability reserve for the Union greenhouse gas emission trading system[2] is to be incorporated into the EEA Agreement.

(3) Decision (EU) 2023/852 of the European Parliament and of the Council of 19 April 2023 amending Decision (EU) 2015/1814 as regards the number of allowances to be placed in the market stability reserve for the Union greenhouse gas emission trading system until 2030[3] is to be incorporated into the EEA Agreement.

(4) Commission Decision (EU) 2023/1575 of 27 July 2023 on the Union-wide quantity of allowances to be issued under the EU Emissions Trading System for 2024[4] is to be incorporated into the EEA Agreement.

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1 OJ L 130, 16.5.2023, p. 105.
2 OJ L 130, 16.5.2023, p. 134.
3 OJ L 110, 25.4.2023, p. 21.
4 OJ L 192, 31.7.2023, p. 30.

(5) The total quantity of allowances to be issued for the year 2027 under the new emissions trading system for buildings, road transport and additional sectors is to be published by the Commission by 1 January 2025 and will, as for the existing Emissions Trading System, establish the cap as an EEA-wide quantity of allowances. The EEA EFTA States should provide input data and will be consulted during the process of preparation of the relevant Commission Decision.

(6) The incorporation of Directive (EU) 2023/959 of the European Parliament and of the Council is without prejudice to the EFTA States' assessment of Regulation (EU) 2023/955 of the European Parliament and of the Council of 10 May 2023 establishing a Social Climate Fund in the context of the scope of the EEA Agreement.

(7) Based on Liechtenstein's regional union with Switzerland and in accordance with the bilateral treaty on environmental charges[1], a CO_2 tax is applied in Liechtenstein, whose administration, including collection, monitoring and reporting is carried out by Swiss authorities and entities. Therefore for Liechtenstein, in respect of the new emissions trading system for buildings, road transport and additional sectors, a review of the end date of the derogation according to Article 30e(3) of Directive 2003/87/EC and an exemption from related administrative rules until then and corresponding adjustments to the sources of emission data are appropriate.

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1 Vertrag zwischen dem Fürstentum Liechtenstein und der Schweizerischen Eidgenossenschaft betreffend die Umweltabgaben im Fürstentum Liechtenstein, abgeschlossen am 29. Januar 2010 (LGBl. 2010 Nr. 12).

(8) The figures published by Decision (EU) 2023/1575 for the Union-wide quantity of allowances for 2024 and the yearly reduction of the allowances to be issued resulting from the application of the linear reduction factor include the EFTA States, in line with Directive (EU) 2023/959.

(9) Annex XX to the EEA Agreement should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

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

1. Point 21al (Directive 2003/87/EC of the European Parliament and of the Council) shall be amended as follows:

(i) the following indent is added:

'- **32023 L 0959**: Directive (EU) 2023/959 of the European Parliament and of the Council of 10 May 2023 (OJ L 130, 16.5.2023, p. 134).';

(ii) adaptation (d) shall be replaced by the following adaptation:

'(d) Article 3d(4), the fourth sentence of the second subparagraph of Article 3ga(3), Article 10(3), Article 30d(6) and the first subparagraph of Article 30e(3)(h) shall not apply to the EFTA States.';

(iii) in adaptation (e), the words 'The following paragraphs shall be inserted in Article 9' are replaced by the words 'The following paragraphs shall be added after the first paragraph of Article 9';

(iv) adaptation (j) is deleted; adaptations (f) to (i) are renumbered as (g) to (j);

(v) the following adaptation is inserted after adaptation (e):

‘(f) The following paragraph shall be added after the second paragraph of Article 9:

“In respect of the EFTA States, the figures taken into account for the calculation of the EEA-wide quantity of allowances to be issued from 2024 onwards pursuant to this Article are set out in Part B of the Appendix.”’;

(vi) adaptations (t) and (u) are renumbered as adaptations (z) and (za); adaptations (l) to (s) are renumbered as adaptations (o) to (v); adaptation (k) is renumbered as adaptation (l);

(vii) the following adaptation is inserted after (j):

‘(k) In Article 10a(1), the words “, or equivalent obligations, in accordance with national law in the EFTA States,” shall be inserted after the words “Article 8 of Directive 2012/27/EU of the European Parliament and of the Council”.’;

(viii) the following adaptations are inserted after adaptation (l):

‘(m) The following subparagraph shall be inserted after the second subparagraph of Article 12(3-d):

“Decisions regarding the EFTA States, shall be made by the EEA Joint Committee, in accordance with the procedures laid down in the EEA Agreement.”

(n) The following subparagraph shall be inserted after Article 12(3-c):

"Decisions regarding requests made by two EFTA States, shall be made by the EEA Joint Committee, in accordance with the procedures laid down in the EEA Agreement."';

(ix) the text of adaptation (o) shall be replaced by the following:

'The following sentence shall be inserted after the second sentence of Article 16(3):

"The EFTA States shall provide for excess emissions penalties that are equivalent to those in the EU Member States."';

(x) the text of adaptation (s) shall be replaced by the following:

'The following subparagraph shall be added in Article 18b(1):

"For the purposes of carrying out their tasks under the Directive, the EFTA States and the EFTA Surveillance Authority may request the assistance of EMSA or another relevant organisation and may conclude to that effect any appropriate arrangements with those organisations."';

(xi) the following adaptations are added after adaptation (v):

‘(w) The following sentence is added in the sixth subparagraph of Article 30d(4):

“In the case referred to in this subparagraph, the share of allowances of the EFTA States made available for the Social Climate Fund in accordance with Article 10a(8b) of this Directive, paragraph 3 of this Article and this paragraph shall not be affected.”

(x) As regards the EFTA States, Article 30e(3)(a) is replaced by the following paragraph:

“The EFTA State concerned notifies the EFTA Surveillance Authority of that national carbon tax at the latest 2 months after the entry into force of EEA Joint Committee Decision …/2023 of … [this Decision], and documenting the tax level by providing references to the relevant national instrument regarding the current tax rate and the indicated tax rates up to 2030; the EFTA State concerned notifies the EFTA Surveillance Authority of any subsequent change to the national carbon tax; the EFTA Surveillance Authority shall promptly, and not later than 1 month thereafter, communicate any notification from an EFTA State to the Commission;”

(y) The following subparagraph shall be added in Article 30e(3):

"For Liechtenstein, the application of the end date of the derogation, 31 December 2030, will be reviewed as part of the next Joint Committee Decision concerning Directive 2003/87/EC following the July 2026 review of the Directive, taking into account the relevant rules applicable in Liechtenstein due to its regional union with Switzerland and in particular the CO_2 tax and its administration as regulated in accordance with the bilateral treaty on environmental charges in view of their equivalence with the emissions trading system for buildings, road transport and additional sectors, and to the extent possible the results of the Commission review of the implementation of Chapter IVa of Directive 2003/87/EC in accordance with Article 30i of that Directive.

Until the next Joint Committee Decision on Directive 2003/87/EC enters into force, Articles 30b and 30f of Directive 2003/87/EC shall not apply in Liechtenstein. Any data relevant for adjustments of the Union-wide quantity of allowances for Liechtenstein relating to the emissions trading system established under Chapter IVa of Directive 2003/87/EC will be taken from UNFCCC greenhouse gas emission inventories for Liechtenstein as long as monitoring data according to Article 30f of the Directive is not available."';

(xii) the text of Part B of the appendix of adaptation (za) shall be replaced by the following:

‘PART B

EFTA States’ figures relevant to the calculation and adjustment of the EEA-wide quantity of allowances to be issued from 2021 to 2030 pursuant to Articles 9 and 9a of Directive 2003/87/EC

For the determination of these figures, the linear factor of 2,2 % from 2021 to 2023, 4,3 % from 2024 to 2027 and 4,4 % from 2028 has been applied.

CAP 2021-2030	Iceland	Norway
2021	1 432 642	16 304 948
2022	1 393 440	15 858 793
2023	1 354 238	15 412 638
2024	1 227 504	14 242 697
2025	1 148 901	13 331 215
2026	1 045 721	12 140 314
2027	967 476	11 235 954
2028	887 411	10 310 563
2029	807 347	9 385 171
2030	727 282	8 459 779

These figures do not include the allowances corresponding to the inclusion in the scope of the ETS Directive of greenhouse gas emissions other than CO_2 emissions from maritime transport activities as of 1 January 2026 and the coverage of emissions of offshore ships as of 1 January 2027, based on their emissions for the most recent year for which data are available.'

2. The following indents are added in point 21alj (Decision (EU) 2015/1814 of the European Parliament and of the Council):

'- **32023 D 0852**: Decision (EU) 2023/852 of the European Parliament and of the Council of 19 April 2023 (OJ L 110, 25.4.2023, p. 21),

- **32023 L 0959**: Directive (EU) 2023/959 of the European Parliament and of the Council of 10 May 2023 (OJ L 130, 16.5.2023, p. 134).'

3. The following point is inserted after point 21apn (Commission Decision (EU) 2020/1722):

'21apo. **32023 D 1575**: Commission Decision (EU) 2023/1575 of 27 July 2023 on the Union-wide quantity of allowances to be issued under the EU Emissions Trading System for 2024 (OJ L 192, 31.7.2023, p. 30).'

4. Point 21aw (Regulation (EU) 2015/757 of the European Parliament and of the Council) shall be amended as follows:

(i) the title is replaced by the following:

‘Regulation (EU) 2015/757 of the European Parliament and of the Council of 29 April 2015 on the monitoring, reporting and verification of greenhouse gas emissions from maritime transport, and amending Directive 2009/16/EC’;

(ii) the following indent is added:

‘- **32023 R 0957**: Regulation (EU) 2023/957 of the European Parliament and of the Council of 10 May 2023 (OJ L 130, 16.5.2023, p. 105).’.

Article 2

The texts of Regulation (EU) 2023/957, Directive (EU) 2023/959 and Decisions (EU) 2023/852 and (EU) 2023/1575 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 …, or on the day following the last notification to the EEA Joint Committee under Article 103(1) of the EEA Agreement, whichever is the later*.

[It shall apply from 31 December 2023.]

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

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