Council of the European Union

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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject:	COUNCIL DECISION on the position to be adopted, on behalf of the European Union, within the EEA Joint Committee concerning the amendment of Annex II (Technical regulations, standards, testing and certification) and Annex XI (Electronic communication, audiovisual services and information society) to the EEA Agreement

COUNCIL DECISION (EU) 2019/…

of …

on the position to be adopted, on behalf of the European Union, within the EEA Joint Committee concerning the amendment of Annex II (Technical regulations, standards, testing and certification) and Annex XI (Electronic communication, audiovisual services and information society) to the EEA Agreement

(Text with EEA relevance)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 43, 114 and 337 in conjunction with Article 218(9) thereof,

Having regard to Council Regulation (EC) No 2894/94 of 28 November 1994 concerning arrangements for implementing the Agreement on the European Economic Area[1], and in particular Article 1(3) thereof,

Having regard to the proposal from the European Commission,

[1] OJ L 305, 30.11.1994, p. 6.

Whereas:

(1) The Agreement on the European Economic Area[1] ('the EEA Agreement') entered into force on 1 January 1994.

(2) Pursuant to Article 98 of the EEA Agreement, the EEA Joint Committee may decide to amend, *inter alia*, Annex II (Technical regulations, standards, testing and certification) and Annex XI (Electronic communication, audiovisual services and information society) to that Agreement.

(3) Directive (EU) 2015/1535 of the European Parliament and of the Council[2] is to be incorporated into the EEA Agreement.

(4) Annexes II and XI to the EEA Agreement should therefore be amended accordingly.

(5) The position of the Union within the EEA Joint Committee should therefore be based on the attached draft decision,

HAS ADOPTED THIS DECISION:

[1] OJ L 1, 3.1.1994, p. 3.

[2] Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services (OJ L 241, 17.9.2015, p. 1).

Article 1

The position to be adopted, on behalf of the Union, within the EEA Joint Committee on the proposed amendment of Annex II (Technical regulations, standards, testing and certification) and Annex XI (Electronic communication, audiovisual services and information society) to the EEA Agreement, shall be based on the draft decision of the EEA Joint Committee attached to this Decision.

Article 2

This Decision shall enter into force on the date of its adoption.

Done at Brussels,

For the Council
The President

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DECISION OF THE EEA JOINT COMMITTEE No …/2019

of …

amending Annex II (Technical regulations, standards, testing and certification) and Annex XI (Electronic communication, audiovisual services and information society) 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 (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services[1] is to be incorporated into the EEA Agreement.

(2) Directive (EU) 2015/1535 repeals Directive 98/34/EC of the European Parliament and of the Council[2], as amended by Directive 98/48/EC of the European Parliament and of the Council[3], which is incorporated into the EEA Agreement and which is consequently to be repealed under the EEA Agreement.

(3) While EFTA States can issue comments and detailed opinions with respect to a draft technical regulation notified by other EFTA States, they may only submit comments with respect to a draft technical regulation notified by the Member States of the Union and vice versa.

(4) Annexes II and XI to the EEA Agreement should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

1 OJ L 241, 17.9.2015, p. 1.
2 OJ L 204, 21.7.1998, p. 37.
3 OJ L 217, 5.8.1998, p. 18.

Article 1

The text of point 1 (Directive 98/34/EC of the European Parliament and of the Council) of Chapter XIX of Annex II to the EEA Agreement is replaced by the following:

'**32015 L 1535**: Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services (OJ L 241, 17.9.2015, p. 1).

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

(a) The second subparagraph of Article 1(1)(c) shall be replaced by the following:

"The term 'technical specification' also covers production methods and processes used in respect of products intended for human and animal consumption, and in medicinal products as defined in Article 1 of Directive 2001/83/EC (as incorporated into point 15 q of Chapter XIII of Annex II to the Agreement by Decision of the EEA Joint Committee No 82/2002 of 25 June 2002[1]), as well as production methods and processes relating to other products, where these have an effect on their characteristics.";

[1] OJ L 266, 3.10.2002, p. 32 and EEA Supplement No 49, 3.10.2002, p. 22.

(b) The following shall be added to the first subparagraph of Article 5(1):

"A full text of the draft technical regulation notified shall be made available in the original language as well as in a full translation into one of the official languages of the Union.";

(c) The following subparagraph shall be added to Article 5(1):

"The Commission on behalf of the Union, on the one side, and the EFTA Surveillance Authority or the EFTA States through the EFTA Surveillance Authority, on the other side, may ask for further information on a draft technical regulation notified.";

(d) The following subparagraph shall be added to Article 5(2):

"The comments of the EFTA States shall be forwarded by the EFTA Surveillance Authority to the Commission in the form of a single coordinated communication and the comments of the Union shall be forwarded by the Commission to the EFTA Surveillance Authority.";

(e) The terms "Member State" and "Commission" in Articles 6(1), (2) and (7) shall be replaced respectively by the terms "EFTA State" and "EFTA Surveillance Authority".

(f) Articles 6(3), (4), (5) and (6) shall not apply.'

Article 2

The text of point 5i (Directive 98/34/EC of the European Parliament and of the Council) of Annex XI to the EEA Agreement is replaced by the following:

'**32015 L 1535**: Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services (OJ L 241, 17.9.2015, p. 1).

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

(a) The second subparagraph of Article 1(1)(c) shall be replaced by the following:

"The term 'technical specification' also covers production methods and processes used in respect of products intended for human and animal consumption, and in medicinal products as defined in Article 1 of Directive 2001/83/EC (as incorporated into point 15 q of Chapter XIII of Annex II to the Agreement by Decision of the EEA Joint Committee No 82/2002 of 25 June 2002[1]), as well as production methods and processes relating to other products, where these have an effect on their characteristics.";

[1] OJ L 266, 3.10.2002, p.32 and EEA Supplement No 49, 3.10.2002, p. 22.

(b) The following shall be added to the first subparagraph of Article 5(1):

"A full text of the draft technical regulation notified shall be made available in the original language as well as in a full translation into one of the official languages of the Union.";

(c) The following subparagraph shall be added to Article 5(1):

"The Commission on behalf of the Union, on the one side, and the EFTA Surveillance Authority or the EFTA States through the EFTA Surveillance Authority, on the other side, may ask for further information on a draft technical regulation notified.";

(d) The following subparagraph shall be added to Article 5(2):

"The comments of the EFTA States shall be forwarded by the EFTA Surveillance Authority to the Commission in the form of a single coordinated communication and the comments of the Union shall be forwarded by the Commission to the EFTA Surveillance Authority.";

(e) The terms "Member State" and "Commission" in Articles 6(1), (2) and (7) shall be replaced respectively by the terms "EFTA State" and "EFTA Surveillance Authority".

(f) Articles 6(3), (4), (5) and (6) shall not apply.'

Article 3

The texts of Directive (EU) 2015/1535 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 4

This Decision shall enter into force on […], provided that all the notifications under Article 103(1) of the EEA Agreement have been made*.

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

Article 5

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