Council of the European Union

Brussels, 2 February 2024
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COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	2 February 2024
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2024) 46 final
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 to the EEA Agreement, on cooperation in specific fields outside the four freedoms (EDIRPA)

Delegations will find attached document COM(2024) 46 final.

Encl.: COM(2024) 46 final

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Brussels, 2.2.2024
COM(2024) 46 final

ANNEX

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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 to the EEA Agreement, on cooperation in specific fields outside the four freedoms

(EDIRPA)

ANNEX

DRAFT DECISION OF THE EEA JOINT COMMITTEE

No […]

of […]

amending Protocol 31 to the EEA Agreement, on cooperation in specific fields outside the four freedoms

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) 2023/2418 of the European Parliament and of the Council of 18 October 2023 on establishing an instrument for reinforcement of the European defence industry through common procurement (EDIRPA)[1].

(2) It is appropriate that the participation of the EFTA States in the activities resulting from Regulation (EU) 2023/2418 commence from 27 October 2023, irrespective of when this Decision is adopted, or whether the fulfilment of constitutional requirements for this Decision, if any, is notified after 10 July 2023.

(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 27 October 2023, 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. The retroactively eligible actions clause present in Article 6 (3) of Regulation (EU) 2023/2418 also applies.

(4) The conditions for the 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) Protocol 31 to the EEA Agreement should therefore be amended in order to allow for this extended cooperation to take place from 27 October 2023,

HAS ADOPTED THIS DECISION:

Article 1

The following paragraph is added after paragraph 14 of Article 7 of Protocol 31 to the EEA Agreement:

'15. **32023 R 2418**: Regulation (EU) 2023/2418 of the European Parliament and of the Council on establishing an instrument for the reinforcement of the

[1] OJ L, 2023/2418, 26.10.2023.

European defence industry through common procurement (EDIRPA) (OJ L, 2023/2418, 26.10.2023).

The EFTA States shall, as from 27 October 2023, participate in the Union actions related to the following budget lines, entered into the general budget of the European Union:

- Budget line 13 01 04: "Support expenditure for the Short-term Defence Instrument on common procurement".

- Budget line 13 06 01: "Short-term Defence instrument on common procurement".

The costs incurred for activities the implementation of which starts after 27 October 2023 or, where the conditions of paragraph 3 of Article 6 of Regulation (EU) 2023/2418 are fulfilled, after 24 February 2022, may be considered eligible as from the starting date of the action fixed in the grant agreement or the grant decisions concerned, under the conditions set out therein, provided that Decision of the EEA Joint Committee [This Decision] enters into force before the end of the action.

Iceland and Liechtenstein shall be exempted from participation in, and the financial contribution to, this Instrument.'

Article 2

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 27 October 2023.

Article 3

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

[*] [Constitutional requirements indicated.]

Declaration by the EFTA States

to Decision No [This Decision] amending Protocol 31 to the EEA Agreement to extend the cooperation of the Contracting Parties to include participation of the EFTA States in the Instrument pursuant to Regulation (EU) 2023/2418.

This Decision extends the cooperation of the Contracting Parties to include the participation of the EFTA States in the Instrument established by Regulation (EU) 2023/2418. The EFTA States consider that defence matters fall outside the scope of the EEA Agreement, and therefore that the adoption of this Decision does not extend the scope of the EEA Agreement to include defence matters beyond the participation in the Instrument established by the aforementioned act. The EFTA States also stress that Iceland and Liechtenstein shall not participate in, and shall not financially contribute to, the Instrument established by the aforementioned acts.