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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) 47 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 (ASAP)

Delegations will find attached document COM(2024) 47 final.

Encl.: COM(2024) 47 final

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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

(ASAP)

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) 2023/1525 of the European Parliament and of the Council of 20 July 2023 on supporting ammunition production (ASAP)[1].

(2) It is appropriate that the participation of EFTA States in the activities resulting from Regulation (EU) 2023/1525 commence from 25 July 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) Since the participation could not be established by 10 July of the financial year 2023, Protocol 31 to the EEA Agreement should be amended to set out the agreement of the parties on the modalities for the retroactive financial contributions for the financial year 2023, to allow for full participation in activities resulting from Regulation (EU) 2023/1525 (ASAP).

(4) 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 25 July 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 retroactivity clause present in Article 7(2) of Regulation (EU) 2023/1525 also applies.

(5) 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.

(6) Protocol 31 to the EEA Agreement should therefore be amended accordingly, in order to allow for this extended cooperation to take place from 25 July 2023,

[1] OJ L 185, 24.7.2023, p. 7.

HAS ADOPTED THIS DECISION:

Article 1

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

‘15. **32023 R 1525**: Regulation (EU) 2023/1525 of the European Parliament and of the Council of 20 July 2023 on supporting ammunition production (ASAP) (OJ L 185, 24.7.2023, p. 7).

The EFTA States shall, as from 25 July 2023, participate in the Union actions related to the following budget lines, entered in the general budget of the European Union:

- Budget line 13 01 05: “Support expenditure for the Defence Industrial Reinforcement Instrument”.

- Budget line 13 07 01: “Defence Industrial Reinforcement Instrument”.

The costs incurred for activities the implementation of which starts after 25 July 2023 or, where the conditions of paragraph 2 of Article 7 of Regulation (EU) 2023/1525 are fulfilled, after 20 March 2023, 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.

In accordance with paragraphs 8 and 9 of Article 1 of Protocol 32, the financial contribution of the EFTA States shall apply to all transactions that are made on the relevant budget lines for the financial year 2023 retroactively. The corresponding commitment appropriations for the financial year 2023 shall be available, mutatis mutandis, under the same terms as the appropriations for the financial year 2024, in particular they shall give rise to the provision, at the start of the financial year 2024, of the full amounts of the corresponding commitment appropriations for the financial year 2023.

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 25 July 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*.

[*] [No constitutional requirements indicated.]

For the EEA Joint Committee
The President

The Secretaries
To the EEA Joint Committee

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) 2023/1525.

This Decision extends the cooperation of the Contracting Parties to include the participation of the EFTA States in the Instrument established by Regulation (EU) 2023/1525. 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.