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COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2023) 95 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 Annex I (Veterinary and phytosanitary matters) and Annex II (Technical regulations, standards, testing and certification) to the EEA Agreement (Fertilisers)

Delegations will find attached document COM(2023) 95 final.

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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 Annex I (Veterinary and phytosanitary matters) and Annex II (Technical regulations, standards, testing and certification) to the EEA Agreement

(Fertilisers)

ANNEX

DRAFT DECISION OF THE EEA JOINT COMMITTEE

No [...]

of [...]

amending Annex I (Veterinary and phytosanitary matters) and Annex II (Technical regulations, standards, testing and certification) 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) 2019/1009 of the European Parliament and of the Council of 5 June 2019 laying down rules on the making available on the market of EU fertilising products and amending Regulations (EC) No 1069/2009 and (EC) No 1107/2009 and repealing Regulation (EC) No 2003/2003¹, as corrected by OJ L 83, 10.3.2022, p. 66 and OJ L 161, 16.6.2022, p. 121, is to be incorporated into the EEA Agreement.
- (2) Commission Delegated Regulation (EU) 2021/1768 of 23 June 2021 amending, for the purpose of its adaptation to technical progress, Annexes I, II, III and IV to Regulation (EU) 2019/1009 of the European Parliament and of the Council laying down rules on the making available on the market of EU fertilising products² is to be incorporated into the EEA Agreement.
- (3) Commission Decision (EU) 2020/1178 of 27 July 2020 on the national provisions notified by the Kingdom of Denmark pursuant to Article 114(4) of the Treaty of the Functioning of the European Union concerning cadmium content in fertilisers³ is to be incorporated into the EEA Agreement.
- (4) Commission Decision (EU) 2020/1184 of 17 July 2020 on the national provisions notified by Hungary pursuant to Article 114(4) of the Treaty on the Functioning of the European Union concerning the cadmium content in phosphate fertilisers⁴ is to be incorporated into the EEA Agreement.
- (5) Commission Decision (EU) 2020/1205 of 6 August 2020 on the national provisions notified by the Slovak Republic pursuant to Article 114(4) of the Treaty on the Functioning of the European Union concerning the cadmium content in phosphate fertilisers⁵ is to be incorporated into the EEA Agreement.
- (6) Communication from the Commission concerning the visual appearance of the label on EU fertilising products referred to in Annex III to Regulation (EU) 2019/1009 of

¹ OJ L 170, 25.6.2019, p. 1.

² OJ L 356, 8.10.2021, p. 8.

³ OJ L 259, 10.8.2020, p. 14.

⁴ OJ L 261, 11.8.2020, p. 42.

⁵ OJ L 270, 18.8.2020, p. 7.

the European Parliament and of the Council⁶ is to be incorporated into the EEA Agreement.

- (7) Regulation (EU) 2019/1009 repeals Regulation (EC) No 2003/2003 of the European Parliament and of the Council⁷, which is incorporated into the EEA Agreement and which is consequently to be repealed under the EEA Agreement.
- (8) The derogation enabling the EFTA States to limit the marketing of fertilisers in their markets due to cadmium contents has been in place in the EEA Agreement since its entry into force in 1994. As for the EU Member States which have been granted the same derogations with regard to cadmium content in fertilisers, the factual circumstances necessitating this derogation remain valid.
- (9) Commission Regulations (EC) No 2076/2004⁸, (EC) No 162/2007⁹, (EC) No 1107/2008¹⁰, (EC) No 1020/2009¹¹, (EU) No 137/2011¹², (EU) No 223/2012¹³, (EU) No 463/2013¹⁴, (EU) No 1257/2014¹⁵, (EU) 2016/1618¹⁶, (EU) 2019/1102¹⁷, (EU) 2020/1666¹⁸ and (EU) 2021/862¹⁹, which are incorporated into the EEA Agreement, have become obsolete and are consequently to be repealed under the EEA Agreement.
- (10) This Decision contains provisions regarding veterinary matters. Legislation regarding veterinary matters shall not apply to Liechtenstein as long as the application of the Agreement between the European Community and the Swiss Confederation on trade in agricultural products is extended to Liechtenstein, as specified in the sectoral adaptations to Annex I.
- (11) Annexes I and II to the EEA Agreement should therefore be amended accordingly,
- HAS ADOPTED THIS DECISION:

Article 1

The following indent is added in point 9b (Regulation (EC) No 1069/2009 of the European Parliament and of the Council) in Part 7.1 of Chapter I of Annex I to the EEA Agreement:

- ‘- **32019 R 1009:** Regulation (EU) 2019/1009 of the European Parliament and of the Council of 5 June 2019 (OJ L 170, 25.6.2019, p. 1), as corrected by OJ L 83, 10.3.2022, p. 66 and OJ L 161, 16.6.2022, p. 121.’

Article 2

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

⁶ OJ C 119, 7.4.2021, p. 1.
⁷ OJ L 304, 21.11.2003, p. 1.
⁸ OJ L 359, 4.12.2004, p. 25.
⁹ OJ L 51, 20.2.2007, p. 7.
¹⁰ OJ L 299, 8.11.2008, p. 13.
¹¹ OJ L 282, 29.10.2009, p. 7.
¹² OJ L 43, 17.2.2011, p. 1.
¹³ OJ L 75, 15.3.2012, p. 12.
¹⁴ OJ L 134, 18.5.2013, p. 1.
¹⁵ OJ L 337, 25.11.2014, p. 53.
¹⁶ OJ L 242, 9.9.2016, p. 24.
¹⁷ OJ L 175, 28.6.2019, p. 25.
¹⁸ OJ L 377, 11.11.2020, p. 3.
¹⁹ OJ L 190, 31.5.2021, p. 74.

1. The text of point 1 (Regulation (EC) No 2003/2003 of the European Parliament and of the Council) of Chapter XIV shall be replaced by the following:

‘**32019 R 1009**: Regulation (EU) 2019/1009 of the European Parliament and of the Council of 5 June 2019 laying down rules on the making available on the market of EU fertilising products and amending Regulations (EC) No 1069/2009 and (EC) No 1107/2009 and repealing Regulation (EC) No 2003/2003 (OJ L 170, 25.6.2019, p. 1), as corrected by OJ L 83, 10.3.2022, p. 66 and OJ L 161, 16.6.2022, p. 121, as amended by:

- **32021 R 1768**: Commission Delegated Regulation (EU) 2021/1768 of 23 June 2021 (OJ L 356, 8.10.2021, p. 8).

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

- (a) The EFTA States shall be free to continue to apply their national limit values for cadmium in phosphate fertilisers existing at the date of entry into force of Decision of the EEA Joint Committee No .../... of [this decision] until such time as harmonised limit values for cadmium content in phosphate fertilisers which are equal to or lower than those limit values become applicable in the European Economic Area.
 - (b) In Article 1(2), the following points shall be added after point (p):
 - “(q) the national plant health law of the EFTA States;
 - (r) the national law on invasive alien species of the EFTA States.”
 - (c) In Article 52, as regards the EFTA States, the words “or the date of entry into force of Decision of the EEA Joint Committee No .../... of [this decision], whichever is the later” are inserted after the words “16 July 2022”.
2. The following is inserted after point 5 (Commission Decision 2006/390/EC) of Chapter XIV:
 - ‘6. **32020 D 1178**: Commission Decision (EU) 2020/1178 of 27 July 2020 on the national provisions notified by the Kingdom of Denmark pursuant to Article 114(4) of the Treaty of the Functioning of the European Union concerning cadmium content in fertilisers (OJ L 259, 10.8.2020, p. 14).
 7. **32022 D 1184**: Commission Decision (EU) 2020/1184 of 17 July 2020 on the national provisions notified by Hungary pursuant to Article 114(4) of the Treaty on the Functioning of the European Union concerning the cadmium content in phosphate fertilisers (OJ L 261, 11.8.2020, p. 42).
 8. **32020 D 1205**: Commission Decision (EU) 2020/1205 of 6 August 2020 on the national provisions notified by the Slovak Republic pursuant to Article 114(4) of the Treaty on the Functioning of the European Union concerning the cadmium content in phosphate fertilisers (OJ L 270, 18.8.2020, p. 7).

ACTS OF WHICH THE CONTRACTING PARTIES SHALL TAKE NOTE

The Contracting Parties shall take note of the following acts:

1. **52021XC0407(04)**: Communication from the Commission concerning the visual appearance of the label on EU fertilising products referred to in Annex

III to Regulation (EU) 2019/1009 of the European Parliament and of the Council (OJ C 119, 7.4.2021, p. 1).’

3. Point 13 (Regulation (EC) No 1107/2009 of the European Parliament and of the Council) of Chapter XV is amended as follows:

(i) the following indent is added:

‘ - **32019 R 1009**: Regulation (EU) 2019/1009 of the European Parliament and of the Council (OJ L 170, 25.6.2019, p. 1), as corrected by OJ L 83, 10.3.2022, p. 66 and OJ L 161, 16.6.2022, p. 121.’

(ii) adaptations (i) and (j) are renumbered as adaptations (j) and (k), respectively.

(iii) the following adaptation is inserted after adaptation (h):

‘(i) In Article 80(8), as regards the EFTA States, the words “15 July 2019” shall read “the date of entry into force of Decision of the EEA Joint Committee No .../... of [this decision].”’

Article 3

The texts of Regulation (EU) 2019/1009, as corrected by OJ L 83, 10.3.2022, p. 66 and OJ L 161, 16.6.2022, p. 121, and Delegated Regulation (EU) 2021/1768, Decisions (EU) 2020/1178, (EU) 2020/1184 and (EU) 2020/1205, and of the Communication from the Commission concerning the visual appearance of the label on EU fertilising products referred to in Annex III to Regulation (EU) 2019/1009 of the European Parliament and of the Council 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 the day following the last notification under Article 103(1) of the EEA Agreement have been made*.

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

[...]

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