



Brussels, 27.2.2018  
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2018/0037 (NLE)

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 XIII (Transport)  
to the EEA Agreement**

## EXPLANATORY MEMORANDUM

### 1. CONTEXT OF THE PROPOSAL

- **Reasons for and objectives of the proposal**

The draft Decision of the EEA Joint Committee (annexed to the proposed Council Decision) aims to amend Annex XIII (Transport) to the EEA Agreement in order to incorporate Commission Regulation (EU) No 1305/2014 on the technical specification for interoperability relating to the telematics applications for freight subsystem of the rail system in the European Union<sup>1</sup>.

The adaptations appearing in the draft of the annexed Decision of the EEA Joint Committee go beyond what can be considered mere technical adaptations in the sense of the Council Regulation No 2894/94.

- **Consistency with existing policy provisions in the policy area**

The annexed draft EEA Joint Committee Decision extends the already existing EU policy to the EEA EFTA States (Norway, Iceland and Liechtenstein).

- **Consistency with other Union policies**

The extension of the EU acquis to the EEA EFTA States, through their incorporation into the EEA Agreement is conducted in conformity with the objectives and principles of that Agreement, aiming at establishing a dynamic and homogeneous European Economic Area, based on common rules and equal conditions of competition

### 2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

The legislation to be incorporated into the EEA Agreement is based on Articles 91 and 172 of the Treaty on the Functioning of the European Union.

Article 1(3) of Council Regulation (EC) No 2894/94<sup>2</sup> concerning arrangements for implementing the EEA Agreement provides that the Council establishes the position to be adopted on the Union's behalf on such Decisions, on a proposal from the Commission.

The EEAS in cooperation with the Commission submits the draft Decision of the EEA Joint Committee for adoption by the Council as the Union's position. The EEAS would hope to be able to present it in the EEA Joint Committee at the earliest possible opportunity.

- **Subsidiarity (for non-exclusive competence)**

The proposal complies with the subsidiarity principle for the following reason.

The objective of this proposal, namely to ensure the homogeneity of the Internal Market, cannot be sufficiently achieved by the Member States and can therefore, by reason of the effects, be better achieved at Union level.

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<sup>1</sup> Commission Regulation (EU) No 1305/2014 of 11 December 2014 on the technical specification for interoperability relating to the telematics applications for freight subsystem of the rail system in the European Union and repealing the Regulation (EC) No 62/2006, (OJ L 356, 12.12.2014, p. 438).

<sup>2</sup> OJ L 305, 30.11.1994, p. 6–8

The process of incorporation of the EU acquis into the EEA Agreement is conducted in conformity with the Council Regulation (EC) No 2894/94 of 28 November 1994 concerning arrangements for implementing the Agreement on the European Economic Area which confirms the approach taken.

- **Proportionality**

In accordance with the principle of proportionality, this proposal does not go beyond what is necessary in order to achieve its objective.

- **Choice of the instrument**

In conformity with Article 98 of the EEA Agreement, the chosen instrument is the EEA Joint Committee decision. The EEA Joint Committee shall ensure the effective implementation and operation of the EEA Agreement. To this end, it shall take decisions in the cases provided for in the EEA Agreement.

### 3. **RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS**

- **Collection and use of expertise**

Not applicable

- **Impact assessment**

Not applicable

### 4. **BUDGETARY IMPLICATIONS**

There are no budgetary implications expected as a result of the incorporation of Commission Regulation (EU) No 1305/2014 into the EEA Agreement.

### 5. **OTHER ELEMENTS**

- **Description of the proposed adaptation**

The Commission Regulation (EU) No 1305/2014 foresees a creation of a "Steering Committee", referred to in Section 7.1.4 of the Annex. This Steering Committee shall provide for the strategic management structure to efficiently manage and coordinate the work for implementing the technical specifications for interoperability (TSI) for the 'telematics applications for freight' (TAF).

These functions shall be vested with the EFTA Surveillance Authority (ESA) within the EFTA side, in line with the two-pillar structure of the EEA Agreement. The EEA EFTA States are therefore requesting a status of observer for ESA in this Steering Committee.

It should be noted, that the members of the Steering Committee may propose to the Steering Committee that other organisations be included as observers where there are sound technical and organisational reasons for doing so.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 91 and 172 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<sup>3</sup>, and in particular Article 1(3) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Agreement on the European Economic Area<sup>4</sup> ('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 XIII (Transport) to the EEA Agreement.
- (3) Commission Regulation (EU) No 1305/2014<sup>5</sup> is to be incorporated into the EEA Agreement.
- (4) Annex XIII (Transport) 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:

*Article 1*

The position to be adopted, on behalf of the Union, within the EEA Joint Committee on the proposed amendment to Annex XIII (Transport) to the EEA Agreement, shall be based on the draft decision of the EEA Joint Committee attached to this Decision.

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<sup>3</sup> OJ L 305, 30.11.1994, p. 6.

<sup>4</sup> OJ L 1, 3.1.1994, p. 3.

<sup>5</sup> Commission Regulation (EU) No 1305/2014 of 11 December 2014 on the technical specification for interoperability relating to the telematics applications for freight subsystem of the rail system in the European Union and repealing the Regulation (EC) No 62/2006, (OJ L 356, 12.12.2014, p. 438).

*Article 2*

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

Done at Brussels,

*For the Council  
The President*