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Proposal for a

### **COUNCIL DECISION**

**on the position to be taken by the European Union in the EEA Joint Committee concerning an amendment to Protocol 31 (on cooperation in specific fields outside the four freedoms) and Protocol 37 (containing the list provided for in Article 101) to the EEA Agreement**

## EXPLANATORY MEMORANDUM

### **1. CONTEXT OF THE PROPOSAL**

In order to ensure the requisite legal security and homogeneity of the Internal Market, the EEA Joint Committee is to integrate all the relevant European Union legislation into the EEA Agreement as soon as possible after its adoption, and also allow for the participation of the EEA EFTA States in EEA relevant EU actions, activities or programmes.

Art. 78 of the EEA Agreement provides that the Contracting Parties shall strengthen and broaden cooperation in the framework of the Union's activities in the fields of, inter alia, research and technological development.

### **2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENTS**

The draft Decision of the EEA Joint Committee (annexed to the proposed Council Decision) aims to amend Protocol 31 (on cooperation in specific fields outside the four freedoms) and Protocol 37 (containing the list provided for in Article 101) to the EEA Agreement.

This concerns Regulation (EU) No 912/2010 of the European Parliament and of the Council of 22 September 2010 setting up the European Global Navigation Satellite System (GNSS) Agency, repealing Council Regulation (EC) No 1321/2004 on the establishment of structures for the management of the European satellite radio navigation programmes and amending Regulation (EC) No 683/2008 of the European Parliament and of the Council.

For the purpose of the implementation of this act, certain adaptations are proposed:

- (a) Liechtenstein is neither to participate in, nor contribute financially to the GNSS Agency,
- (b) The participation of Iceland in the GNSS programmes is to be suspended temporarily, due to economic constraints.

### **3. LEGAL ELEMENTS OF THE PROPOSAL**

Article 1(3) of Council Regulation (EC) No 2894/94 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 Commission submits the Draft Decision of the EEA Joint Committee for adoption by the Council as the Union's position. The Commission would hope to be able to present it in the EEA Joint Committee at the earliest possible opportunity.

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## **COUNCIL DECISION**

**on the position to be taken by the European Union in the EEA Joint Committee concerning an amendment to Protocol 31 (on cooperation in specific fields outside the four freedoms) and Protocol 37 (containing the list provided for in Article 101) to the EEA Agreement**

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

Whereas:

- (1) Protocol 31 to the Agreement on the European Economic Area, (hereinafter referred to as "the EEA Agreement") contains provisions and arrangements concerning cooperation in specific fields outside the four freedoms,
- (2) It is appropriate to extend the cooperation of the Contracting Parties to the Agreement to include Regulation (EU) No 912/2010 of the European Parliament and of the Council of 22 September 2010 setting up the European GNSS Agency, repealing Council Regulation (EC) No 1321/2004 on the establishment of structures for the management of the European satellite radio navigation programmes and amending Regulation (EC) No 683/2008 of the European Parliament and of the Council<sup>2</sup>.
- (3) Protocol 31 to the Agreement should therefore be amended in order to allow for this extended cooperation to take place. As regards the participation of Norway, account should also be taken in this regard of the Cooperation Agreement on Satellite Navigation between the European Union and its Member States and Norway<sup>3</sup>, and in particular its Article 6 on security. Due to economic constraints, the participation of Iceland in the GNSS programmes should be suspended temporarily.

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<sup>1</sup> OJ L 305, 30.11.1994, p. 6.

<sup>2</sup> OJ L 276, 20.10.2010, p. 11.

<sup>3</sup> OJ L 283/12, 29.10.2010

- (4) For the Agreement to function well, Protocol 37 to the Agreement is to be extended to include the Security Accreditation Board for European GNSS systems and the Administrative Board set up by Regulation (EU) No 912/2010, and Protocol 31 is to be amended in order to specify the procedures for participation,
- (5) The position of the Union within the EEA Joint Committee should be based on the attached draft Decision,

HAS ADOPTED THIS DECISION:

*Article 1*

The position to be taken by the Union within the EEA Joint Committee on the proposed amendment to Protocol 31 and Protocol 37 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 day of its adoption.

Done at Brussels,

*For the Council  
The President*

**ANNEX**

**Draft (06.03.2012)**

**DECISION OF THE EEA JOINT COMMITTEE**

**No**

**of**

**amending Protocol 31 (on cooperation in specific fields outside the four freedoms) and  
Protocol 37 (containing the list provided for in Article 101) to the EEA Agreement,**

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area, as amended by the Protocol adjusting the Agreement on the European Economic Area, hereinafter referred to as ‘the Agreement’, and in particular Articles 86, 98 and 101 thereof,

Whereas:

- (1) Protocol 31 to the Agreement was amended by Decision of the EEA Joint Committee No .../... of ...<sup>1</sup>.
- (2) Protocol 37 to the Agreement was amended by Decision of the EEA Joint Committee No .../... of ...<sup>2</sup>.
- (3) It is appropriate to extend the cooperation of the Contracting Parties to the Agreement to include Regulation (EU) No 912/2010 of the European Parliament and of the Council of 22 September 2010 setting up the European GNSS Agency, repealing Council Regulation (EC) No 1321/2004 on the establishment of structures for the management of the European satellite radio navigation programmes and amending Regulation (EC) No 683/2008 of the European Parliament and of the Council<sup>3</sup>.
- (4) Protocol 31 to the Agreement should therefore be amended in order to allow for this extended cooperation to take place. As regards the participation of Norway, account should also be taken in this regard of the Cooperation Agreement on Satellite Navigation between the European Union and its Member States and Norway<sup>4</sup>, and in particular its article 6 on security. However, due to economic constraints, the participation of Iceland in the GNSS programmes should be suspended temporarily.
- (5) For the Agreement to function well, Protocol 37 to the Agreement is to be extended to include the Security Accreditation Board for European GNSS systems and the Administrative Board set up by Regulation (EU) No 912/2010, and Protocol 31 is to be amended in order to specify the procedures for participation,

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<sup>1</sup> OJ L ...

<sup>2</sup> OJ L ...

<sup>3</sup> OJ L 276, 20.10.2010, p. 11.

<sup>4</sup> OJ L 283/12, 29.10.2010

HAS ADOPTED THIS DECISION:

*Article 1*

Article 1 (Research and technological development) of Protocol 31 to the Agreement shall be amended as follows:

1. The text of paragraph 8 shall be replaced by the following:
  - ‘(a) The EFTA States shall fully participate in the European GNSS Agency, hereinafter referred to as the “Agency”, as set up by the following Union act:
    - **32010 R 0912**: Regulation (EU) No 912/2010 of the European Parliament and of the Council of 22 September 2010 setting up the European GNSS Agency, repealing Council Regulation (EC) No 1321/2004 on the establishment of structures for the management of the European satellite radio navigation programmes and amending Regulation (EC) No 683/2008 of the European Parliament and of the Council (OJ L 276, 20.10.2010, p. 11).
  - (b) The EFTA States shall contribute financially to the activities referred to under (a) in accordance with Article 82(1)(a) of and Protocol 32 to the Agreement.
  - (c) The EFTA States shall participate fully, without the right to vote, in the Administrative Board of the Agency and in the Security Accreditation Board of the Agency.
  - (d) The Agency shall have legal personality. It shall enjoy in all the States of the Contracting Parties the most extensive legal capacity accorded to legal persons under their law.
  - (e) The EFTA States shall apply to the Agency the Protocol of Privileges and Immunities of the European Communities.
  - (f) By way of derogation from Article 12(2)(a) of the Conditions of employment of other servants of the European Communities, nationals of the EFTA States enjoying their full rights as citizens may be engaged under contract by the Executive Director of the Agency.
  - (g) By virtue of Article 79(3) of the Agreement, Part VII (Institutional Provisions) of the Agreement, with the exception of Sections 1 and 2 of Chapter 3, shall apply to this paragraph.
  - (h) Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents shall, for the application of this Regulation, apply to any documents of the Agency regarding the EFTA States as well.
  - (i) With regard to Iceland, this paragraph shall be suspended until otherwise decided by the EEA Joint Committee.
  - (j) This paragraph shall not apply to Liechtenstein.’

2. The following shall be added in point (a) of paragraph 8a:

‘, as amended by:

- **32010 R 0912**: Regulation (EU) No 912/2010 of the European Parliament and of the Council of 22 September 2010 (OJ L 276, 20.10.2010, p. 11).’

#### *Article 2*

Protocol 37 to the Agreement shall be amended as follows:

1. The texts of points 30 and 31 shall be deleted.
2. The following points shall be inserted:
  - ‘34. The Security Accreditation Board for European GNSS systems (Regulation (EU) No 912/2010).
  - 35. The Administrative Board (Regulation (EU) No 912/2010).’

#### *Article 3*

This Decision shall enter into force on the day following the last notification to the EEA Joint Committee under Article 103(1) of the Agreement\*.

It shall apply from 1 January 2012.

#### *Article 4*

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*

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