



Brussels, 9.11.2012  
COM(2012) 645 final

2012/0307 (NLE)

Proposal for a

**COUNCIL DECISION**

**on the position to be adopted, on behalf of the European Union, in the EEA Joint Committee concerning an amendment to Annex IV (Energy) and Annex XXI (Statistics) 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.

### **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 Annex IV (Energy) and Annex XXI (Statistics) by adding new European Union acquis in this field.

This concerns Directive 2008/92/EC of the European Parliament and of the Council of 22 October 2008 concerning a Community procedure to improve the transparency of gas and electricity prices charged to industrial end-users (recast). Directive 2008/92/EC repeals Council Directive 90/377/EEC, which is incorporated into the EEA Agreement and which is consequently to be repealed under the EEA Agreement.

For the purpose of the implementation of this act, an adaptation is proposed in relation to Liechtenstein. Liechtenstein wishes to be exempted from the obligations foreseen in this Directive, except for the obligation to provide the industrial price data for consumer band IC for electricity and for consumer band I3 for gas.

### **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.

Proposal for a

## **COUNCIL DECISION**

### **on the position to be adopted, on behalf of the European Union, in the EEA Joint Committee concerning an amendment to Annex IV (Energy) and Annex XXI (Statistics) 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 Article 338 (1), 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>1</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>2</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 IV and Annex XXI thereto.
- (3) Annex IV and Annex XXI to the EEA Agreement contain specific provisions and arrangements concerning respectively energy and statistics.
- (4) Directive 2008/92/EC of the European Parliament and of the Council of 22 October 2008 concerning a Community procedure to improve the transparency of gas and electricity prices charged to industrial end-users (recast)<sup>3</sup> is to be incorporated into the EEA Agreement.
- (5) Directive 2008/92/EC repeals Council Directive 90/377/EEC, which is incorporated into the EEA Agreement and which is consequently to be repealed under the EEA Agreement.
- (6) Liechtenstein is to be exempted from the obligations foreseen in Directive 2008/92/EC, except for the obligation to provide the industrial price data for consumer band IC for electricity and for consumer band I3 for gas

---

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

<sup>2</sup> OJ L 1, 3.1.1994, p. 3.

<sup>3</sup> OJ L 298, 7.11.2008, p. 9.

- (7) Annex IV and Annex XXI to the EEA Agreement should therefore be amended accordingly.
- (8) The position of the Union in 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 European Union in the EEA Joint Committee on the proposed amendment to Annex IV (Energy) and Annex XXI (Statistics) 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

**DECISION OF THE EEA JOINT COMMITTEE**

**No**

**of**

**amending Annex IV (Energy) and Annex XXI (Statistics) 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) Directive 2008/92/EC of the European Parliament and of the Council of 22 October 2008 concerning a Community procedure to improve the transparency of gas and electricity prices charged to industrial end-users (recast)<sup>1</sup> is to be incorporated into the EEA Agreement.
- (2) Directive 2008/92/EC repeals Council Directive 90/377/EEC, which is incorporated into the EEA Agreement and which is consequently to be repealed under the EEA Agreement.
- (3) Annexes IV and XXI to the EEA Agreement should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

*Article 1*

The text of point 7 (Council Directive 90/377/EEC) of Annex IV to the EEA Agreement shall be replaced by the following:

‘**32008 L 0092:** Directive 2008/92/EC of the European Parliament and of the Council of 22 October 2008 concerning a Community procedure to improve the transparency of gas and electricity prices charged to industrial end-users (recast) (OJ L 298, 7.11.2008, p. 9)<sup>(1)</sup>.

- (1) Listed here for information purposes only: for application see Annex XXI on statistics.’

*Article 2*

The text of point 26 (Council Directive 90/377/EEC) of Annex XXI to the EEA Agreement shall be replaced by the following:

---

<sup>1</sup> OJ L 298, 7.11.2008, p. 9.

‘**32008 L 0092**: Directive 2008/92/EC of the European Parliament and of the Council of 22 October 2008 concerning a Community procedure to improve the transparency of gas and electricity prices charged to industrial end-users (recast) (OJ L 298, 7.11.2008, p. 9).

The provisions of the Directive shall, for the purposes of this Agreement, be read with the following adaptation:

Liechtenstein shall be exempted from the obligations foreseen in this Directive, except for the obligation to provide the industrial price data for consumer band IC for electricity and for consumer band I3 for gas. This data (3 price levels: without taxes, without VAT and with VAT and other taxes included) shall be provided on a half yearly basis within 2 months after the reference period by using the appropriate questionnaires provided by Eurostat.’

### *Article 3*

The texts of Directive 2008/92/EC 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 [...], provided that all the notifications under Article 103(1) of the EEA Agreement have been made to the EEA Joint Committee\*.

### *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.]