



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 19.5.2005
SEC(2005) 646 final

Draft

DECISION OF THE EEA JOINT COMMITTEE

amending Annex XI (Telecommunication services) to the EEA Agreement

- Draft common position of the Community -
(presented by the Commission)

EXPLANATORY MEMORANDUM

1. In order to ensure the requisite legal security and homogeneity, the EEA Joint Committee is to integrate all the relevant Community legislation into the EEA Agreement as soon as possible after its adoption.
2. The EEA Joint Committee should therefore amend Annex XI (Telecommunication services) to the EEA Agreement by adopting the attached draft decision which concerns:
 - **32004 R 0460**: Regulation (EC) No 460/2004 of the European Parliament and of the Council of 10 March 2004 establishing the European Network and Information Security Agency (OJ L 77 of 13 March 2004, p. 1)
3. The draft decision of the EEA Joint Committee provides the framework for the participation of the EEA EFTA States in the European Network and Information Security Agency, in particular provisions on the financial contribution of the EEA EFTA States, as well as the modalities for their participation in the Management Board established by the regulation, i.e. full participation except for the right to vote.
4. Article 1(3)(a) of Council Regulation (EC) No 2894/94 concerning the arrangements for implementing the EEA Agreement envisages that the Council establishes the Community position for decisions extending Community legislation with substantial changes.
5. The draft decision of the EEA Joint Committee is submitted for the approval of the Council, after which the Commission will put forward the position of the Community in the EEA Joint Committee at the earliest possible occasion.

Draft

DECISION OF THE EEA JOINT COMMITTEE

amending Annex XI (Telecommunication services) 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 Article 98 thereof,

Whereas:

- (1) Annex XI to the Agreement was amended by Decision of the EEA Joint Committee No .../... of ...¹.
- (2) Regulation (EC) No 460/2004 of the European Parliament and of the Council of 10 March 2004 establishing the European Network and Information Security Agency² has as objective to enhance the capability of the Community, the Member States and, as a consequence, the business community to prevent, address and to respond to network and information security problems.
- (3) The activities of the European Network and Information Security Agency may affect network and information security problems within the European Economic Area.
- (4) Regulation (EC) No 460/2004 is therefore to be incorporated into the Agreement in order to allow for the full participation of the EFTA States in the European Network and Information Security Agency,

HAS DECIDED AS FOLLOWS:

Article 1

Annex XI to the Agreement shall be amended as specified in the Annex to this Decision.

Article 2

The texts of Regulation (EC) No 460/2004 in the Icelandic and Norwegian languages, to be published in the EEA Supplement to the *Official Journal of the European Union*, shall be authentic.

¹ OJ C [...], [...], p. [...].

² OJ L 77, 13.3.2004, p. 1.

Article 3

This Decision shall enter into force on , provided that all the notifications under Article 103(1) of the Agreement have been made to the EEA Joint Committee*.

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*

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

ANNEX

to Decision of the EEA Joint Committee No [...]

The following shall be inserted after point 5cn (Commission Decision 2003/548/EC) of Annex XI to the Agreement:

‘5co. **32004 R 0460**: Regulation (EC) No 460/2004 of the European Parliament and of the Council of 10 March 2004 establishing the European Network and Information Security Agency (OJ L 77, 13.3.2004, p. 1).

The text of the Regulation shall, for the purposes of the present Agreement, be read with the following adaptations:

- (a) Unless otherwise stipulated below, and notwithstanding the provisions of Protocol 1 to the Agreement, the term ‘Member State(s)’ and other terms referring to their public entities contained in the Regulation shall be understood to include, in addition to its meaning in the Regulation, the EFTA States and their public entities. Paragraph 11 of Protocol 1 shall apply.
- (b) As regards the EFTA States, the Agency shall, as and when appropriate, assist the EFTA Surveillance Authority or the Standing Committee, as the case may be, in the performance of their respective tasks.
- (c) The following paragraph shall be added to Article 6:
 - ‘11. The EFTA States shall participate fully in the Management Board and shall within it have the same rights and obligations as EU Member States, except for the right to vote.’
- (d) The following shall be added to Article 14:
 - ‘4. Regulation (EC) No 1049/2001 of the European Parliament and 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.’
- (e) The following paragraph shall be added to Article 15:
 - ‘12. The EFTA States shall participate in the financial contribution from the Community referred to in paragraph 1. For this purpose, the procedures laid down in Article 82(1)(a) and Protocol 32 to the Agreement shall apply *mutatis mutandis*.’
- (f) The following paragraph shall be added to Article 19:
 - ‘3. 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) The following paragraph shall be added to Article 20:

‘2. EFTA States shall apply to the Agency and to its staff the Protocol of Privileges and Immunities of the European Communities and applicable rules adopted pursuant to the Protocol.’