



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 18.7.2007
SEC(2007) 1005 final

Draft

DECISION OF THE EEA JOINT COMMITTEE

**amending Protocol 23 to the EEA Agreement concerning the cooperation between the
surveillance authorities (Article 58)**

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

EXPLANATORY MEMORANDUM

1. The EEA Joint Committee has the task of ensuring the homogeneity of the Internal Market, the legal security for operators. This includes promoting a consistent and coherent interpretation and application of competition rules.
2. The EEA Joint Committee should therefore adopt the attached Decision to amend Protocol 23 (Competition) of the EEA Agreement.
3. The draft Joint Committee Decision introduces the possibility for the Commission to invite national competition authorities of the EEA EFTA States and the EFTA Surveillance Authority to participate in the European Competition Network, along with Member States' competition authorities.
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 Joint Committee Decisions of this nature.
5. The draft Decision of the EEA Joint Committee is submitted for the approval of the Council. The Commission aims to put forward the position of the Community in the EEA Joint Committee as soon as possible after the adoption by the Council.

Draft

DECISION OF THE EEA JOINT COMMITTEE

amending Protocol 23 to the EEA Agreement concerning the cooperation between the surveillance authorities (Article 58)

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) Protocol 23 to the Agreement was amended by Decision of the EEA Joint Committee No ... of ...¹.
- (2) In order to allow the EFTA Surveillance Authority and the EFTA States to participate in policy discussions within the European Competition Network (ECN) involving the exchange of confidential information pursuant to Articles 81 and 82 of the EC Treaty, a legal framework is required to enable the exchange of confidential information not already covered by the Agreement. Therefore a new Article 1A shall be incorporated into Protocol 23 to the Agreement,

HAS DECIDED AS FOLLOWS:

Article 1

The following shall be added after Article 1 of Protocol 23 to the Agreement:

‘Article 1A

In the interest of a homogeneous interpretation by the EFTA Surveillance Authority and the EC Commission of Articles 53 and 54 of the Agreement and of Articles 81 and 82 of the Treaty, the EFTA Surveillance Authority and the competent authorities of the EFTA States can also be allowed to participate in meetings of the network of public authorities referred to in recital 15 of Council Regulation 1/2003 for the purposes of discussions of general policy issues only. The EFTA Surveillance Authority, the EC Commission and the competent authorities of the EFTA states and of the EC Member States shall have the power to make available all information necessary for the purpose of this general policy discussion in that network. Information made available in this context shall not be used for enforcement

¹ OJ L ...

purposes. This participation is without prejudice to rights of participation of the EFTA States and the EFTA Surveillance Authority granted under the EEA Agreement.’

Article 2

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 3

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.]