



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 7.2.2008
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Draft

DECISION OF THE EEA JOINT COMMITTEE

**amending Annex II (Technical regulations, standards, testing and certification)
to the EEA Agreement**

- 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 and the legal security for operators by incorporating all relevant Community legislation into the EEA Agreement.
2. The EEA Joint Committee should therefore amend Annex II (Technical regulations, standards, testing and certification) of the EEA Agreement by adopting the attached draft decision which concerns Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, as well as a number of related Community acts.
3. The draft decision of the EEA Joint Committee i.a. provides the framework for the participation of the EEA EFTA States in the European Chemicals Agency, in particular the provisions on the financial contribution of the EEA EFTA States, as well as the modalities for their participation, i.e. full participation except for the right to vote.
4. Article 1(3) 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, 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
No [...]**

of [...]

**amending Annex II (Technical regulations, standards, testing and certification)
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 II to the Agreement was amended by Decision of the EEA Joint Committee No ... of ...¹.
- (2) Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC², as corrected by OJ L 136, 29.5.2007, p. 3, is to be incorporated into the Agreement.
- (3) Directive 2006/121/EC of the European Parliament and of the Council of 18 December 2006 amending Council Directive 67/548/EEC on the approximation of laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances in order to adapt it to Regulation (EC) No 1907/2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) and establishing a European Chemicals Agency³, as corrected by OJ L 136, 29.5.2007, p. 281, is to be incorporated into the Agreement,

¹ OJ L ...

² OJ L 396, 30.12.2006, p. 1.

³ OJ L 396, 30.12.2006, p. 850.

HAS DECIDED AS FOLLOWS:

Article 1

Chapter XV of Annex II to the Agreement shall be amended as specified in the Annex to this Decision.

Article 2

The texts of Regulation (EC) No 1907/2006 as corrected by OJ L 136, 29.5.2007, p. 3 and Directive 2006/121/EC as corrected by OJ L 136, 29.5.2007, p. 281 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 3

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

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 [...]

Chapter XV of Annex II to the Agreement shall be amended as follows:

1. The following shall be inserted after point 12zb (Commission Decision 2007/639/EC):

‘12zc. **32006 R 1907**: Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC (OJ L 396, 30.12.2006, p. 1), as corrected by OJ L 136, 29.5.2007, p. 3.

The Provisions of the Regulation shall, for the purpose of this Agreement, be read with the following adaptations:

- (a) The EFTA States shall participate in the work of the European Chemicals Agency, hereinafter referred to as ‘the Agency’, as set up by European Parliament and Council Regulation (EC) No 1907/2006.
- (b) Notwithstanding the provisions of Protocol 1 to the Agreement, the term ‘Member State(s)’ contained in the Regulation shall be understood to include, in addition to its meaning in the Regulation, the EFTA States.
- (c) 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.
- (d) For products covered by Council Directive 91/414/EEC, the EFTA States will be free to limit access to their markets according to the requirements of their legislation existing at the date of entry into force of this Agreement. New EC rules will be dealt with according to the procedures laid down in Articles 97 to 104 of the Agreement.
- (e) Should any disagreement between the contracting parties arise as to the administration of these provisions, Part VII of the Agreement shall apply *mutatis mutandis*.
- (f) In Article 3, paragraph 10, the following shall be added at the end: “or into the territory of the EFTA States”.
- (g) Article 64 (8) shall be read with the following adaptation: “When the Commission takes authorisation decisions, the EFTA States will simultaneously and within 30 days of the Community Decision, take corresponding decisions. The EEA Joint Committee shall be informed and shall periodically publish lists of such decisions in the EEA Supplement to the Official Journal.”

- (h) The following paragraph shall be added in Article 79:
- “3. The EFTA States shall participate fully in the Management Board and shall within it have the same rights and obligations as EC Member States, except for the right to vote. The internal rules of procedure of the Board shall give full effect to the EFTA States’ participation.”
- (i) The following paragraph shall be added in Article 85:
- “10. The EFTA States shall participate fully in the Member State Committee, in the Committee for Risk Assessment and the Committee for Socio-economic Analysis, and shall have the same rights and obligations as EC Member States, except for the right to vote. The internal rules of procedure of these committees shall give full effect to the EFTA States’ participation.”
- (j) The following paragraph shall be added in Article 86:
- “5. EFTA States shall participate in the Forum for Exchange of Information on Enforcement. The internal rules of procedure of this Forum shall give full effect to the EFTA States’ participation.’
- (k) The following paragraph shall be added in Article 89:
- “Nationals of the EFTA States shall be eligible as members, or as alternates, of the Board of Appeal.”
- (l) The following paragraph shall be added in Article 96:
- “12. The EFTA States shall, as from the entry into force of this Decision, participate in the financing of the Agency. For this purpose the procedures laid down in Article 82(1)(a) and Protocol 32 of the Agreement shall apply *mutatis mutandis*.”
- (m) The following shall be added in Article 102:
- “The EFTA States shall grant privileges and immunities to the Agency equivalent to those contained in the Protocol on privileges and immunities of the European Communities.”
- (n) The following paragraph shall be added to Article 103:
- “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.”
- (o) The following paragraph shall be added in Article 118:
- “5. 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 Regulation (EC) No 1907/2006, apply to any documents of the Agency regarding the EFTA States as well.”

- (p) The following paragraph shall be added in Article 124: “Liechtenstein shall not be obliged to establish a national helpdesk. Instead, Liechtenstein will publish a link to the helpdesk of the German Federal Institute for Occupational Safety and Health on the homepage of the competent Liechtenstein authority for chemicals, the Office for Environmental Protection.””

2. The following indent shall be added in point 1 (Council Directive 67/548/EEC):
 - ‘- **32006 L 0121**: Directive 2006/121/EC of the European Parliament and of the Council of 18 December 2006 (OJ L 396, 30.12.2006, p. 850), as corrected by OJ L 136, 29.5.2007, p. 281.’
3. The following indent shall be added in point 12r (Directive 1999/45/EC of the European Parliament and of the Council):
 - ‘- **32006 R 1907**: Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 (OJ L 396, 30.12.2006, p. 1), as corrected by OJ L 136, 29.5.2007, p. 3.’
4. The text of point 10 (Commission Directive 91/155/EEC) shall be deleted. The text of the 16th indent (Commission Directive 93/105/EEC) and 22nd indent (Commission Directive 2000/21/EC) of point 1 (Council Directive 67/548/EEC) and points 12e (Council Regulation (EEC) No 793/93) and 12f (Commission Regulation (EC) No 1488/94) shall be deleted with effect from 1 June 2008. Point 12d (Commission Directive 93/67/EEC) shall be deleted with effect from 1 August 2008. Point 4 (Council Directive 76/769/EEC) shall be deleted with effect from 1 June 2009.