



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 12.8.2008
SEC(2008) 2376 final

Draft

DECISION OF THE EEA JOINT COMMITTEE
No [...]

of [...]

**amending Protocol 32 to the Agreement on financial modalities for implementation of
Article 82**

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

EXPLANATORY MEMORANDUM

1. Protocol 32 to the EEA Agreement contains financial modalities for implementation of Article 82 of the Agreement.
2. The attached draft Decision of the EEA Joint Committee aims to amend and simplify Protocol 32 to the Agreement to more accurately reflect the current budgetary structure and procedure of the European Commission. The revision also aims at describing the EEA budgetary process in more detail and in a comprehensive way.
3. Article 1.3 of Council Regulation (EC) No 2894/94 concerning the arrangements for implementing the EEA Agreement envisages that the Council establish the Community position for such Decisions on a proposal from the Commission.
4. The draft Decision of the EEA Joint Committee is submitted for the approval of the Council. The Commission would hope to be able to put forward the position of the Community in the EEA Joint Committee at the earliest possible opportunity.

Draft

**DECISION OF THE EEA JOINT COMMITTEE
No**

of

**amending Protocol 32 to the Agreement on financial modalities for implementation of
Article 82**

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 and 98 thereof,

Whereas:

- (1) Protocol 32 to the Agreement has not previously been amended by the EEA Joint Committee.
- (2) The Council of the European Union adopted on the 25 June 2002 Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities¹, which was amended by Council Regulation (EC, Euratom) No 1995/2006 of 13 December 2006² and by Council Regulation (EC) No 1525/2007 of 17 December 2007³.
- (3) Protocol 32 should reflect the new procedures provided for in Council Regulation (EC, Euratom) No 1605/2002.
- (4) The procedure laid down in Protocol 32 should be set out in more detail, including the deadlines applicable within this procedure.
- (5) The contributions by the EFTA States should no longer be paid in two stages.
- (6) Obsolete provisions should be deleted from Protocol 32.
- (7) Protocol 32 to the Agreement should therefore be amended,

¹ OJ L 248, 16.9.2002, p. 1.
² OJ L 390, 30.12.2006, p. 1.
³ OJ L 343, 27.12.2007, p. 9.

HAS DECIDED AS FOLLOWS:

Article 1

Protocol 32 to the Agreement shall be amended as specified in the Annex to this Decision.

Article 2

This Decision shall enter into force on the day following the last notification to the EEA Joint Committee under Article 103(1) of the Agreement⁴.

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*

⁴ [Constitutional requirements indicated.] [No constitutional requirements indicated.]

ANNEX

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

The text of Protocol 32 to the Agreement shall be replaced by the following:

‘Article 1

Procedure for the determination of the financial participation of the EFTA States for each financial year (n)

1. At the latest by 31 January of each year (n-1) the European Commission shall communicate to the Standing Committee of the EFTA States the financial programming document covering the activities to be implemented for the remaining period of the relevant Multiannual Financial Framework and giving the indicative commitment appropriations foreseen for these activities.
2. The Standing Committee of the EFTA States shall communicate to the European Commission at the latest by 15 February of the year (n-1), a list of Community activities which the EFTA States wish, for the first time, to include in the EEA Annex to the provisional draft budget of the European Union for the financial year (n). The list shall be without prejudice to new proposals that are introduced by the Community during the year and without prejudice to the final position adopted by the EFTA States as regards their participation in these activities.
3. At the latest by 15 May of each year (n-1), the European Commission shall communicate to the Standing Committee of the EFTA States its position concerning the requests of the EFTA States for participation in activities during the financial year (n), together with the following information:
 - (a) the indicative amounts entered “for information” as commitment and payment appropriations, in the statement of expenditure of the draft budget of the European Union for the activities in which the EFTA States are taking part or have indicated a wish to take part and calculated in accordance with the provisions of Article 82 of the Agreement;
 - (b) the estimated amounts corresponding to the contributions of the EFTA States, entered “for information” in the statement of revenue of the draft budget.

The position of the European Commission shall be without prejudice to the possibility of continuing discussions on activities for which it has not accepted the participation of the EFTA States.

4. In the event that the amounts referred to in paragraph 3 are not in accordance with the provisions of Article 82 of the Agreement, the Standing Committee of the EFTA States may request corrections before 1 July of the year (n-1).
5. The amounts referred to in paragraph 3 shall be adjusted following the adoption of the General Budget of the European Union, with due respect to the provisions of Article 82 of the Agreement. These adjusted amounts shall be communicated to the Standing Committee of the EFTA States without delay.

6. Within a period of 30 days following the publication of the General Budget of the European Union in the Official Journal of the European Union, the Chairs of the EEA Joint Committee shall confirm, by an exchange of letters initiated by the European Commission, that the amounts entered in the EEA Annex to the General Budget of the European Union are in accordance with the provisions of Article 82 of the Agreement.
7. At the latest by 1 June of the financial year (n), the Standing Committee of the EFTA States shall communicate to the European Commission the final breakdown of the contribution for each EFTA State. This breakdown shall be binding.

Should this information not be provided by 1 June of the financial year (n), the percentages of the breakdown implemented during the year (n-1) shall apply on a provisional basis. The adjustment shall be made according to the procedure set out in Article 4.
8. If by 10 July of the financial year (n) at the latest, unless a later date is agreed upon in exceptional circumstances, a decision of the EEA Joint Committee establishing the participation of the EFTA States in an activity included in the EEA Annex to the General Budget of the European Union for the year (n) is not adopted or if the fulfilment of constitutional requirements for such a decision, if any, is not notified by that date at the latest, the participation of the EFTA States in the activity in question shall be deferred to the year (n+1), unless otherwise agreed.
9. Once the participation of the EFTA States in an activity is established for a year (n), the financial contribution of the EFTA States shall apply to all the transactions that are made on the relevant budget lines in that financial year, unless otherwise agreed.

Article 2

Making available the contributions of the EFTA States

1. On the basis of the EEA Annex to the General Budget of the European Union, finalised in accordance with Articles 1(6) and 1(7), the European Commission shall establish, for each EFTA State, a call for funds calculated on the basis of the payment appropriations and in accordance with Article 71(2) of the Financial Regulation⁵.
2. This call for funds shall reach the EFTA States no later than 15 August of the year (n) and shall request the payment by each EFTA State of its contribution by 31 August of the year (n) at the latest.

If the General Budget of the European Union is not adopted before 10 July of the year (n), or the date agreed upon pursuant to Article 1(8) in exceptional circumstances, the payment shall be requested on the basis of the indicative amount

⁵ Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities (OJ L 248, 16.9.2002, p. 1), as amended by Council Regulation (EC, Euratom) No 1995/2006 of 13 December 2006 (OJ L390, 30.12.2006, p. 1, as corrected by OJ L 48, 22.2.2008, p. 88) and Council Regulation (EC) No 1525/2007 of 17 December 2007 (OJ L 343, 27.12.2007, p. 9).

foreseen in the draft budget. The adjustment shall take place according to the procedure set out in Article 4.

3. Contributions shall be expressed and paid in EUR.
4. To this end, each EFTA State shall open with its Treasury, or the body it shall designate for this purpose, an account in EUR on behalf of the European Commission.
5. Any delay in the entries in the account referred to in paragraph 4 shall give rise to the payment of interest by the EFTA State concerned at the rate applied by the European Central Bank for its main refinancing operations in EUR, plus one and a half percentage point. The reference rate shall be the one in force on 1 July, as published in the C series of the Official Journal of the European Union.

Article 3

Conditions for implementation

1. The utilisation of the appropriations arising from the participation of the EFTA States shall take place in accordance with the provisions of the Financial Regulation.
2. With regard to tendering procedures, calls for tender shall be open to all EC Member States as well as to all EFTA States in so far as they involve financing on budgetary lines in respect of which the EFTA States are participating.

Article 4

Regularisation of EFTA contribution in the light of implementation

1. The contribution of the EFTA States, determined for each budgetary line concerned, in accordance with the provisions of Article 82 of the Agreement, shall remain unchanged during the financial year (n) in question.
2. Following the closure of the accounts relating to each financial year, the European Commission shall, within the framework of the establishment of the annual accounts in the year (n+1), calculate the budget outturn of the EFTA States, taking into account:
 - (a) the amount of the contributions paid by the EFTA States in accordance with Article 2;
 - (b) the amount of the EFTA States' part in the total implementation figures of budget appropriations on the budget lines for which the participation of the EFTA States was agreed;
 - (c) any sums covering Community related expenditure which the EFTA States cover individually or payments made by EFTA States in kind (e.g. administrative support).

3. All sums recovered from third parties under each budget line for which the participation of the EFTA States was agreed shall be treated as assigned revenues within the same budget line in accordance with Article 18(1)(f) of the Financial Regulation.
4. The regularisation of the contribution of the EFTA States for the financial year (n), based on the budget outturn, shall be made within the framework of the call for funds for the financial year (n+2) and be based on the final breakdown between the EFTA States in the year (n).
5. Complementary rules for the implementation of paragraphs 1 and 4 shall be adopted as necessary by the EEA Joint Committee. This shall apply in particular for Community expenditure to be borne by each EFTA State individually or for their in kind contributions.

Article 5

Information

1. The European Commission shall provide the Standing Committee of the EFTA States, at the end of each quarter, with an extract from its accounts showing, with regard both to receipts and expenditure, the situation concerning the implementation of the programmes and other actions in which the EFTA States participate financially.
2. Following the closure of the financial year (n), the European Commission shall communicate to the Standing Committee of the EFTA States the data concerning the programmes and other actions in which the EFTA States participate financially, which appear in the relevant volume of the annual accounts drawn up in accordance with the provisions of Articles 126 and 127 of the Financial Regulation.
3. The European Commission shall provide the Standing Committee of the EFTA States with such other financial information as the latter may reasonably request as regards the programmes and other actions in which they participate financially.

Article 6

Control

1. The control of the determination and of the availability of all income as well as the control of the commitment and of the scheduling of all expenditure corresponding to the participation of the EFTA States shall take place in accordance with the provisions of the Treaty establishing the European Community, of the Financial Regulation and of the applicable regulations in the fields referred to in Article 76 and 78 of the Agreement.
2. Appropriate arrangements shall be established between the auditing authorities of the European Commission and of the EFTA States with a view to facilitating the control of income and expenditure corresponding to the participation of EFTA States in Community activities in accordance with paragraph 1.

Article 7

GDP figure to be taken into consideration to calculate the proportionality factor

The GDP data at market prices referred to in Article 82 of the Agreement shall be those published as a result of the implementation of Article 76 of the Agreement.’