



COMMISSION OF THE EUROPEAN COMMUNITIES

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Draft

DECISION OF THE EEA JOINT COMMITTEE

amending Annex IX (Financial 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 adopt the attached decision to amend Annex IX to the EEA Agreement by adding recently adopted acquis in the field of Financial Services. The decision concerns:

32002 L 0083: Directive 2002/83/EC of the European Parliament and of the Council of 5 November 2002 concerning life assurance (OJ L 345, 19.12.2002, p. 1).
3. Annex IX to the EEA Agreement is to be extended to include the abovementioned Directive. The annex to the attached draft Decision of the EEA Joint Committee lists a series of proposed adaptations for the purpose of the incorporation of the directive into the EEA Agreement. These adaptations mainly concern third country relations.
4. Article 1(3)(a) of Council Regulation (EC) No 2894/94 concerning the arrangements for implementing the EEA Agreement envisages that the Council establish 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.

Draft

DECISION OF THE EEA JOINT COMMITTEE
amending Annex IX (Financial 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 IX to the Agreement was amended by Decision of the EEA Joint Committee No ... of ...¹.
- (2) Directive 2002/83/EC of the European Parliament and of the Council of 5 November 2002 concerning life assurance² is to be incorporated into the Agreement,
- (3) Directive 2002/83/EC repeals, with effect the date of its entry into force, Directives 79/267/EEC³, 90/619/EEC⁴ and 92/96/EEC⁵, which are incorporated into the Agreement and which are consequently to be deleted from the Agreement.

HAS DECIDED AS FOLLOWS:

Article 1

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

Article 2

The texts of Directive 2002/83/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 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* .

¹ OJ L...

² OJ L 345, 19.12.2002, p. 1.

³ OJ L 63, 13.3.1979, p. 1.

⁴ OJ L 330, 29.11.1990, p. 50.

⁵ OJ L 360, 9.12.1992, p. 1.

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 [...]

Annex IX to the Agreement shall be amended as follows:

1. The text of point 11 (Council Directive 79/267/EEC) shall be replaced with the following:

‘32002 L 0083: Directive 2002/83/EC of the European Parliament and of the Council of 5 November 2002 concerning life assurance (OJ L 345, 19.12.2002, p. 1).

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

(a) the following shall be added to Article 6.1a):

– in the case of Iceland:

Hlutfélag, Gagnkvæmt félag.

– in the case of Liechtenstein:

Aktiengesellschaft, Genossenschaft, Stiftung.

– in the case of Norway:

Aksjeselskaper, Gjensidige selskaper.

(b) Article 57 shall not apply; the following provision shall be applicable:

Each Contracting Party may, by means of agreements concluded with one or more third countries, agree to the application of provisions different from those provided for in Articles 51, 52 and 54 to 56 of the Directive on the condition that its insured persons are given adequate and equivalent protection.

The Contracting Parties shall inform and consult each other prior to concluding such agreements.

The Contracting Parties shall not apply provisions to branches of insurance undertakings having their head office outside the territory of the Contracting Parties which result in more favourable treatment than that accorded to branches of insurance undertakings having their head office within the territory of the Contracting Parties;

(c) As regards relations with third-country insurance undertakings described in Article 59 the following shall apply:

1. With a view to achieving a maximum degree of convergence in the application of a third-country regime for insurance undertakings, the Contracting Parties shall exchange information as described in Articles 59(1) and 59(5). Consultations shall be held regarding matters referred to in Articles 59(2), 59(3) and 59(4), within the framework of the EEA Joint Committee and according to specific procedures to be agreed by the Contracting Parties.

2. Authorizations granted by the competent authorities of a Contracting Party to insurance undertakings which are direct or indirect subsidiaries of parent undertakings governed by the laws of a third country shall have validity in accordance with the provisions of the Directive throughout the territory of all Contracting Parties.

However,

- (a) where a third country imposes quantitative restrictions on the establishment of insurance undertakings of an EFTA State, or imposes restrictions on such insurance undertakings that it does not impose on Community insurance undertakings, authorizations granted by competent authorities within the Community to insurance undertakings which are direct or indirect subsidiaries of parent undertakings governed by the laws of that third country shall have validity only in the Community, except where an EFTA State decides otherwise for its own jurisdiction;
 - (b) where the Community has decided that decisions regarding authorizations of insurance undertakings which are direct or indirect subsidiaries of parent undertakings governed by the laws of a third country, shall be limited or suspended, any authorization granted by a competent authority of an EFTA State to such insurance undertakings shall have validity only in its jurisdiction, except where another Contracting Party decides otherwise for its own jurisdiction,
 - (c) the limitations or suspensions referred to in subparagraphs (a) and (b) may not apply to insurance undertakings or their subsidiaries already authorized in the territory of a Contracting Party.
3. Whenever the Community negotiates with a third country on the basis of Article 59(3) and 59(4), in order to obtain national treatment and effective market access for its insurance undertakings, it shall endeavor to obtain equal treatment for the insurance undertakings of the EFTA States;
- (d) In Article 30(1), the words ‘European index of consumer prices comprising all Member States’ shall be replaced with the words ‘EEA index of consumer prices comprising all Contracting Parties’.

2. The texts in points 12 (Council Directive 90/619/EEC) and 12a (Council Directive 92/96/EEC) shall be deleted.

3. The following shall be added in the eighth indent (Directive 95/26/EC of the European Parliament and of the Council) of point 2 (Council Directive 73/239/EEC), first indent (Directive 95/26/EC of the European Parliament and of the Council) of point 7a (Council Directive 92/49/EEC), second indent (Directive 95/26/EC of the European Parliament and of the Council) of point 30 (Council Directive 85/611/EEC) and first indent (Directive 95/26/EC of the European Parliament and of the Council) of point 30b (Council Directive 93/22/EEC):

‘, as amended by:

- **32002 L 0083**: Directive 2002/83/EC of the European Parliament and of the Council of 5 November 2002 (OJ L 345, 19.12.2002, p.1).’

4. The following shall be added in the second indent (Directive 2000/64/EC of the European Parliament and of the Council) of point 7a (Council Directive 92/49/EEC), third indent (Directive 2000/64/EC of the European Parliament and of the Council) of point 30 (Council Directive 85/611/EEC) and second indent (Directive 2000/64/EC of the European Parliament and of the Council) of point 30b (Council Directive 93/22/EEC):

‘, as amended by:

- **32002 L 0083**: Directive 2002/83/EC of the European Parliament and of the Council of 5 November 2002 (OJ L 345, 19.12.2002, p.1).’