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Proposal for a

COUNCIL DECISION

**on the position to be adopted, on behalf of the European Union,
in the EEA Joint Committee concerning an amendment Annex II (Technical regulations,
standards, testing and certification) and Annex XX (Environment) to the EEA
Agreement
(Fuel Quality Directive)**

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EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

In order to ensure the requisite legal security and homogeneity of the Internal Market, the EEA Joint Committee is to integrate all the relevant EU legislation into the EEA Agreement as soon as possible after its adoption.

2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENTS

The draft Decision of the EEA Joint Committee (annexed to the proposed Council Decision) aims to amend Annex II (Technical regulations, standards, testing and certification) and Annex XX (Environment) to the EEA Agreement in order to incorporate Directive 2009/30/EC as regards the specification of petrol, diesel and gas-oil and introducing a mechanism to monitor and reduce greenhouse gas emissions and amending Council Directive 1999/32/EC as regards the specification of fuel used by inland waterway vessels and repealing Directive 93/12/EEC¹.

Since the EEA EFTA States are requesting adaptations which derogate from the EU acquis and introduce changes which are more than mere technical adjustments, as foreseen in Article 1(3) of Council Regulation (EC) No 2894/94, the corresponding EU position shall be adopted by the Council.

The EFTA side provides the following clarification to the requested adaptations:

Article 2(5):

Article 2(5) defines “Member States with low ambient summer temperatures” for the purposes of Directive 98/70/EC. Iceland and Norway should be included within this group. Therefore, adaptation (a) provides for their inclusion under Article 2(5).

Article 3(4):

A novel procedure to produce renewable methanol has been developed in Iceland. Blending renewable methanol into petrol provides an option for replacing fossil fuels and decarbonising transport fuels in Iceland. Directive 98/70/EC, as amended by Directive 2009/30/EC, allows 3%, v/v, methanol content in petrol.

Blending petrol with alcohols results in higher vapour pressure of the fuel. Directive 2009/30/EC accounts for this with respect to ethanol by providing a derogation to maximum vapour pressure limits. This derogation supports the development of a biofuels market. A similar derogation for petrol with 3%, v/v, methanol content is needed to allow placing petrol mixed with renewable methanol on the Icelandic market in the summer months.

According to the Commission Staff Working Document accompanying the Proposal for Directive 2009/30/EC², “[t]he maximum summer vapour pressure of petrol is regulated by directive 98/70 to control emissions of Volatile Organic Compounds (VOCs). Emissions of VOCs are a concern because (1) they are precursors of ozone formation which harms the

¹ Directive 2009/30/EC of the European Parliament and of the Council of 23 April 2009 amending Directive 98/70/EC as regards the specification of petrol, diesel and gas-oil and introducing a mechanism to monitor and reduce greenhouse gas emissions and amending Council Directive 1999/32/EC as regards the specification of fuel used by inland waterway vessels and repealing Directive 93/12/EEC, OJ L 140, 5.6.2009, p. 88.

² SEC(2007) 55.

environment and human health; and (2) certain hydrocarbons such as benzene pose a specific risk for health”.

Emissions of non-methane volatile organic compounds ('NMVOC') in Iceland have decreased; emissions in 2009 were 58% below the 1990 level. Target values for ozone with the objective of protecting human health (maximum daily 8-hour mean of 120 µg/m³) set in Directive 2002/3/EC and implemented by Icelandic regulation No. 745/2003, are not exceeded in Iceland in the summer period. Blending methanol into petrol adds methanol to the VOC emissions from the fuel. The POCP index (Photochemical Ozone Creation Potential) for methanol (20,5) is lower than that of petrol (61), which can be expected to counteract the effect of increased vapour pressure on ozone formation.

As regards health risks, a critical review of peer-reviewed literature on the toxicity of inhaled methanol vapours produced no evidence upon which to base a conclusion that exposure to low levels of methanol vapours will result in adverse health effects. Mean temperature in Iceland during the three summer months is less than 11°C. A comparison of mean summer temperatures in European cities and adopted petrol volatility classes shows that petrol with vapour pressures above 80 kPa is used in European cities in months when average temperatures exceed 12°C.

The draft Joint Committee Decision ('JCD') hence foresees an adaptation stating that Iceland may, during the summer period, permit the placing on the market of petrol containing ethanol or methanol with maximum vapour pressure of 70 kPa, on condition that the ethanol used is a biofuel or that the greenhouse gas emission saving from the use of methanol fulfils the criteria specified in Article 7b(2).

Article 7b(6):

This provision refers to a specific part of the EU Common Agricultural Policy ('CAP'). As the CAP is not part of the EEA Agreement, an adaptation text disapplying Article 7b(6) has been included in the draft JCD.

Application of Articles 7a to 7e to Liechtenstein:

There are no suppliers, as defined under Article 2(8) of the Directive, in Liechtenstein. According to the Swiss Mineral Oil Tax Act of 21 June 1996, which is applicable in Liechtenstein by virtue of the Liechtenstein-Swiss customs union, the importer or owner of fuel dumps has to pay the taxes for the import of fuels. There are no direct imports of petrol and diesel in Liechtenstein. For that reason, since no supplier can be assigned the obligations of Article 7a to 7e, these Articles can therefore not apply to Liechtenstein and a corresponding adaptation text has been included in the draft JCD.

3. LEGAL ELEMENTS OF THE PROPOSAL

Article 1(3) of Council Regulation (EC) No 2894/94 concerning arrangements for implementing the EEA Agreement provides that the Council establishes the position to be adopted on the Union's behalf on such Decisions, on a proposal from the Commission.

The Commission submits the Draft Decision of the EEA Joint Committee for adoption by the Council as the Union's position. The Commission would hope to be able to present it in the EEA Joint Committee at the earliest possible opportunity.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114, Article 192(1) and Article 218(9) thereof,

Having regard to Council Regulation (EC) No 2894/94 of 28 November 1994 concerning arrangements for implementing the Agreement on the European Economic Area³, and in particular Article 1(3) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Agreement on the European Economic Area⁴ ('the EEA Agreement') entered into force on 1 January 1994.
- (2) Pursuant to Article 98 of the EEA Agreement, the EEA Joint Committee may decide to amend, inter alia, Annex II (Technical regulations, standards, testing and certification) and Annex XX (Environment) to the EEA Agreement to the EEA Agreement.
- (3) Directive 2009/30/EC of the European Parliament and of the Council⁵ is to be incorporated into the EEA Agreement.
- (4) Annex II and Annex XX to the EEA Agreement should therefore be amended accordingly.
- (5) The position of the Union within the EEA Joint Committee should be based on the attached draft Decision,

³ OJ L 305, 30.11.1994, p. 6.

⁴ OJ L 1, 3.1.1994, p. 3.

⁵ Directive 2009/30/EC of the European Parliament and of the Council of 23 April 2009 amending Directive 98/70/EC as regards the specification of petrol, diesel and gas-oil and introducing a mechanism to monitor and reduce greenhouse gas emissions and amending Council Directive 1999/32/EC as regards the specification of fuel used by inland waterway vessels and repealing Directive 93/12/EEC, OJ L 140, 5.6.2009, p. 88.

HAS ADOPTED THIS DECISION:

Article 1

The position to be adopted, on behalf of the Union, within the EEA Joint Committee on the proposed amendment to Annex II (Technical regulations, standards, testing and certification) and Annex XX (Environment) to the EEA Agreement, shall be based on the draft Decision of the EEA Joint Committee attached to this Decision.

Article 2

This Decision shall enter into force on the date of its adoption.

Done at Brussels,

*For the Council
The President*