DECISIONS

COUNCIL DECISION

of 22 July 2013

on the position to be adopted, on behalf of the European Union, in the EEA Joint Committee concerning an amendment to Annex XIII to the EEA Agreement

(2013/411/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 100(2), in conjunction with 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 Area [1], and in particular Article 1(3) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) The Agreement on the European Economic Area [2] ('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 XIII thereto.

(3) Annex XIII to the EEA Agreement contains specific provisions on all modes of transport.

(4) Regulation (EC) No 1070/2009 of the European Parliament and of the Council of 21 October 2009 amending Regulations (EC) No 549/2004, (EC) No 550/2004, (EC) No 551/2004 and (EC) No 552/2004 in order to improve the performance and sustainability of the European aviation system [3] is to be incorporated into the EEA Agreement with certain adaptations for the EEA EFTA States.

(5) The adaptations for the EEA EFTA States concern the applicability of the amendments inserted by Regulation (EC) No 1070/2009 in Articles 5, 11 and 13a of Regulation (EC) No 549/2004 [4], Article 9a(2)(c), Article 9a(2)(i) and Article 9a(5) and (6) of Regulation (EC) No 550/2004 [5] and Article 6(2) of Regulation (EC) No 551/2004 [6].

(6) Annex XIII to the EEA Agreement should therefore be amended accordingly.

(7) The position of the Union in the EEA Joint Committee should be based on the attached draft Decision,

HAS ADOPTED THIS DECISION:

Article 1

The position to be adopted, on behalf of the European Union, in the EEA Joint Committee on the proposed amendment to Annex XIII 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 day of its adoption.

Done at Brussels, 22 July 2013.

For the Council
The President
C. ASHTON

[1] OJ L 305, 30.11.1994, p. 6.
[2] OJ L 1, 3.1.1994, p. 3.
[3] OJ L 300, 14.11.2009, p. 34.
[4] OJ L 96, 31.3.2004, p. 1.
[5] OJ L 96, 31.3.2004, p. 10.
[6] OJ L 96, 31.3.2004, p. 20.

DRAFT

DECISION OF THE EEA JOINT COMMITTEE No .../...

of

amending Annex XIII (Transport) to the EEA Agreement

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area ('the EEA Agreement'), and in particular Article 98 thereof,

Whereas:

(1) Regulation (EC) No 1070/2009 of the European Parliament and of the Council of 21 October 2009 amending Regulations (EC) No 549/2004, (EC) No 550/2004, (EC) No 551/2004 and (EC) No 552/2004 in order to improve the performance and sustainability of the European aviation system [1] is to be incorporated into the EEA Agreement.

(2) The airspace where Iceland is responsible for the provision of air traffic services is fully within the ICAO NAT region, where regional planning and regional agreements have been established, enabling FAB-like functioning, and serve the operational needs and requirements which differ from the ICAO EUR and AFI regions.

(3) Annex XIII to the EEA Agreement should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Annex XIII to the EEA Agreement shall be amended as follows:

1. The text of point 66t (Regulation (EC) No 549/2004 of the European Parliament and of the Council) shall be amended as follows:

(i) The following text is added:

', as amended by:

— **32009 R 1070**: Regulation (EC) No 1070/2009 of the European Parliament and of the Council of 21 October 2009 (OJ L 300, 14.11.2009, p. 34).'

(ii) The text of adaptation (a) is replaced by the following:

'(a) The following paragraphs shall be added to Article 5:

'6. The EFTA States shall participate fully in the committee established pursuant to paragraph 1, except for the right to vote.

7. The EFTA Surveillance Authority shall have observer status in the Single Sky Committee.' '

(iii) Adaptation (b) is renumbered as adaptation (h).

(iv) The following adaptations are inserted:

'(b) In Article 11, the words 'Community-wide' shall read 'regional or national' with regard to Iceland.

(c) With regard to Iceland, Article 11 shall apply as of 1 January 2015.

(d) The first sentence of Article 11(2) shall read as follows:

'The Standing Committee of the EFTA States may designate Eurocontrol or another impartial and competent body to act as a 'performance review body'. If the Commission has designated a performance review body, the Standing Committee of the EFTA States shall endeavour to designate the same entity under similar conditions to fulfil the same tasks in regard to the EFTA States.'

(e) In Article 11(3)(c) the following paragraph shall be added:

'If a functional airspace block covers the airspace of one or more EU Member States and one or more EFTA States, the tasks and powers set out in this point shall be carried out and exercised by the Commission with regard to the EU Member States and by the EFTA Surveillance Authority with regard to the EFTA States. The Commission and the EFTA Surveillance Authority shall in this regard cooperate with a view to adopting identical positions.'

(f) In Article 11(3)(e) the following paragraph shall be added:

'If the assessment concerns performance targets, which relate to one or more EU Member States and one or more EFTA States, the assessment shall be carried out by the EFTA Surveillance Authority with regard to the EFTA States and by the Commission with regard to the EU Member States. The Commission and the EFTA Surveillance Authority shall cooperate with a view to presenting jointly the results to the Single Sky Committee.'

(g) In Article 13a, with regards to the EFTA States, 'Member States and the Commission' shall read 'the EFTA States and the EFTA Surveillance Authority'.'

2. The text of point 66u (Regulation (EC) No 550/2004 of the European Parliament and of the Council) shall be amended as follows:

(i) The following text is added:

[1] OJ L 300, 14.11.2009, p. 34.

', as amended by:

— **32009 R 1070**: Regulation (EC) No 1070/2009 of the European Parliament and of the Council of 21 October 2009 (OJ L 300, 14.11.2009, p. 34).'

(ii) Adaptations (a), (b), (c) and (d) are renumbered as adaptations (d), (e), (f) and (g).

(iii) The following adaptations are inserted:

'(a) With regard to Iceland Article 9a(2)(c) shall read as follows:

'ensure consistency with the European route network established in accordance with Article 6 of the airspace Regulation or the route network established in the ICAO NAT region;'

(b) With regard to Iceland Article 9a(2)(i) shall read as follows:

'facilitate consistency with regional or national performance targets.'

(c) In Article 9a(6) the following paragraph shall be added:

'The Commission and the EFTA Surveillance Authority shall assess the fulfilment of the requirements set out in paragraph 2 by functional airspace blocks involving one or more EU Member States and one or more EFTA States, and shall cooperate with a view to presenting a joint result to the Single Sky Committee for discussion. If the Commission and the EFTA Surveillance Authority find that an airspace block does not fulfil the requirements they shall engage in a dialogue with the concerned EU Member States and the concerned EFTA States respectively with the aim of reaching a consensus on the measures necessary to rectify the situation.' '

3. The text of point 66v (Regulation (EC) No 551/2004 of the European Parliament and of the Council) shall be amended as follows:

(i) The following text is added:

', as amended by:

— **32009 R 1070**: Regulation (EC) No 1070/2009 of the European Parliament and of the Council of 21 October 2009 (OJ L 300, 14.11.2009, p. 34).'

(ii) The texts of adaptations (a) and (b) are deleted.

(iii) Adaptation (c) is renumbered as adaptation (d).

(iv) The following adaptations are inserted:

'(a) In Article 6(2), the word 'Commission' shall, with regard to the EFTA States, be replaced by the words 'Standing Committee of the EFTA States'.

(b) In Article 6(2)(b) third subparagraph, the words 'after consultation of the Single Sky Committee and' shall, with regard to the EFTA States, not apply.

(c) In Article 6(2)(b) third subparagraph, the following shall be added:

'If the Commission has nominated a Network Manager, the Standing Committee of the EFTA States shall endeavour to designate the same entity under similar conditions to fulfil the same tasks in regard to the EFTA States.' '

4. The following is added in point 66w (Regulation (EC) No 552/2004 of the European Parliament and of the Council):

', as amended by:

— **32009 R 1070**: Regulation (EC) No 1070/2009 of the European Parliament and of the Council of 21 October 2009 (OJ L 300, 14.11.2009, p. 34).'

Article 2

The texts of Regulation (EC) No 1070/2009 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 EEA Agreement have been made. (*)

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.]