



2023/2509

13.11.2023

COUNCIL DECISION (EU) 2023/2509

of 9 November 2023

on the position to be adopted, on behalf of the European Union, within the EEA Joint Committee concerning an amendment to Annex II (Technical regulations, standards, testing and certification) to the EEA Agreement (Market Surveillance and Compliance of Products Regulation)

(Text with EEA relevance)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 33 and 114 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 II (Technical regulations, standards, testing and certification) to the EEA Agreement.
- (3) Regulation (EU) 2019/1020 of the European Parliament and of the Council ⁽³⁾ and Commission Implementing Regulations (EU) 2021/1121 ⁽⁴⁾ and (EU) 2022/1267 ⁽⁵⁾ should be incorporated into the EEA Agreement.
- (4) Annex II (Technical regulations, standards, testing and certification) to the EEA Agreement should therefore be amended accordingly.
- (5) The position of the Union within the EEA Joint Committee should therefore be based on the attached draft decision,

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) to the EEA Agreement shall be based on the draft decision of the EEA Joint Committee attached to this Decision.

⁽¹⁾ OJ L 305, 30.11.1994, p. 6.

⁽²⁾ OJ L 1, 3.1.1994, p. 3.

⁽³⁾ Regulation (EU) 2019/1020 of the European Parliament and of the Council of 20 June 2019 on market surveillance and compliance of products and amending Directive 2004/42/EC and Regulations (EC) No 765/2008 and (EU) No 305/2011 (OJ L 169, 25.6.2019, p. 1).

⁽⁴⁾ Commission Implementing Regulation (EU) 2021/1121 of 8 July 2021 specifying the details of the statistical data to be submitted by the Member States as regards controls on products entering the Union market with regard to product safety and compliance (OJ L 243, 9.7.2021, p. 37).

⁽⁵⁾ Commission Implementing Regulation (EU) 2022/1267 of 20 July 2022 specifying the procedures for the designation of Union testing facilities for the purposes of market surveillance and verification of product compliance in accordance with Regulation (EU) 2019/1020 of the European Parliament and of the Council (OJ L 192, 21.7.2022, p. 21).

Article 2

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

Done at Brussels, 9 November 2023.

For the Council
The President
N. CALVIÑO SANTAMARÍA

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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 (the 'EEA Agreement'), and in particular Article 98 thereof,

Whereas:

- (1) Regulation (EU) 2019/1020 of the European Parliament and of the Council of 20 June 2019 on market surveillance and compliance of products and amending Directive 2004/42/EC and Regulations (EC) No 765/2008 and (EU) No 305/2011 ⁽¹⁾ is to be incorporated into the EEA Agreement.
- (2) Commission Implementing Regulation (EU) 2021/1121 of 8 July 2021 specifying the details of the statistical data to be submitted by the Member States as regards controls on products entering the Union market with regard to product safety and compliance ⁽²⁾ is to be incorporated into the EEA Agreement.
- (3) Commission Implementing Regulation (EU) 2022/1267 of 20 July 2022 specifying the procedures for the designation of Union testing facilities for the purposes of market surveillance and verification of product compliance in accordance with Regulation (EU) 2019/1020 of the European Parliament and of the Council ⁽³⁾ is to be incorporated into the EEA Agreement.
- (4) Annex II to the EEA Agreement should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

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

1. The following indent is added in point 9 (Directive 2004/42/EC of the European Parliament and of the Council) of Chapter XVII:
 '– 32019 R 1020: Regulation (EU) 2019/1020 of the European Parliament and of the Council of 20 June 2019 (OJ L 169, 25.6.2019, p. 1).';
2. Point 3b (Regulation (EC) No 765/2008 of the European Parliament and of the Council) of Chapter XIX is amended as follows:
 - (i) The following is added:
 ', as amended by:
 — 32019 R 1020: Regulation (EU) 2019/1020 of the European Parliament and of the Council of 20 June 2019 (OJ L 169, 25.6.2019, p. 1).';
 - (ii) Adaptation (b) is deleted.
3. The following is inserted after point 3ua (Commission Implementing Regulation (EU) 2020/1668) of Chapter XIX:
 '3v. 32019 R 1020: Regulation (EU) 2019/1020 of the European Parliament and of the Council of 20 June 2019 on market surveillance and compliance of products and amending Directive 2004/42/EC and Regulations (EC) No 765/2008 and (EU) No 305/2011 (OJ L 169, 25.6.2019, p. 1).

⁽¹⁾ OJ L 169, 25.6.2019, p. 1.

⁽²⁾ OJ L 243, 9.7.2021, p. 37.

⁽³⁾ OJ L 192, 21.7.2022, p. 21.

The provisions of the Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

- (a) Unless otherwise specified, references to Union law shall be understood as referring to the EEA Agreement.
 - (b) Article 3 shall be amended as follows:
 - (i) in paragraph 24, the words “or the customs administrations of the EFTA States responsible for applying the customs legislation and any other authorities of the EFTA States empowered under national law to apply certain customs legislation” shall be added after the reference to Regulation (EU) No 952/2013.
 - (ii) in paragraph 25, the words “or, as regards the EFTA States, the corresponding procedures in accordance with their respective national customs legislation” shall be added after the reference to Regulation (EU) No 952/2013.
 - (iii) in paragraph 26, the words “or within the customs territories of the EFTA States” shall be added after the words “customs territory of the Union”.
 - (c) In paragraph 2 of Article 14, the words “, including the principles of the Charter of Fundamental Rights of the European Union” shall not apply to the EFTA States.
 - (d) In paragraphs 3 and 4 of Article 25 and in the second subparagraph of Article 28(4), references to Regulation (EU) No 952/2013 of the European Parliament and of the Council shall, as regards the EFTA States, be understood to refer to corresponding provisions of national customs law.
 - (e) As regards Liechtenstein, obligations on authorities designated under Article 25(1) shall be governed by national law.
 - (f) Products exported from Liechtenstein to the other Contracting Parties may be subjected to controls in accordance with Articles 25 to 28 when entering the EEA.
 - (g) Articles 25(2), (4), and (6) and 34(6) shall not apply to Liechtenstein.
 - (h) Article 26(4) shall not apply to the EFTA States.
 - (i) In Article 28, as regards the EFTA States, the words “the customs data-processing system” shall read “any notification issued to the affected parties in accordance with national procedures”.
 - (j) The EFTA States shall participate fully, without the right to vote, in the Union Product Compliance Network in accordance with Articles 29-31. The EFTA Surveillance Authority shall participate as observer.
- 3va. 32021 R 1121: Commission Implementing Regulation (EU) 2021/1121 of 8 July 2021 specifying the details of the statistical data to be submitted by the Member States as regards controls on products entering the Union market with regard to product safety and compliance (OJ L 243, 9.7.2021, p. 37).

The provisions of the Implementing Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

- (a) In paragraphs 1(c) and 4 of Article 1, references to Commission Delegated Regulation (EU) 2015/2446 shall, as regards the EFTA States, be understood to refer to corresponding provisions of national customs law.
 - (b) In point (c)(ix) of Article 1, the words “Union legislation” shall be replaced by the words “provisions of the EEA Agreement”.
- 3vb. 32022 R 1267: Commission Implementing Regulation (EU) 2022/1267 of 20 July 2022 specifying the procedures for the designation of Union testing facilities for the purposes of market surveillance and verification of product compliance in accordance with Regulation (EU) 2019/1020 of the European Parliament and of the Council (OJ L 192, 21.7.2022, p. 21).’
4. The following indent is added in point 1 (Regulation (EU) No 305/2011 of the European Parliament and of the Council) of Chapter XXI:
- ‘— 32019 R 1020: Regulation (EU) 2019/1020 of the European Parliament and of the Council of 20 June 2019 (OJ L 169, 25.6.2019, p. 1).’

Article 2

The text of Regulation (EU) 2019/1020 and Implementing Regulations (EU) 2021/1121 and (EU) 2022/1267 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.]