DECISION OF THE EEA JOINT COMMITTEE

No 16/2001

of 28 February 2001

amending Annex II (Technical regulations, standards, testing and certification) and Annex XI (Telecommunication 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 II to the Agreement was amended by Decision No 146/1999 of the EEA Joint Committee of 5 November 1999 ([1]).

(2) Annex XI to the Agreement was amended by Decision No 108/2000 of the EEA Joint Committee of 30 November 2000 ([2]).

(3) Directive 98/48/EC of the European Parliament and of the Council of 20 July 1998 amending Directive 98/34/EC laying down a procedure for the provision of information in the field of technical standards and regulations ([3]) is to be incorporated into the Agreement,

HAS DECIDED AS FOLLOWS:

Article 1

Point 1 (Directive 98/34/EC of the European Parliament and of the Council) in Chapter XIX of Annex II to the Agreement shall be amended as follows:

1. the following shall be inserted before the adaptations:

   ', as amended by:

   — **398 L 0048**: Directive 98/48/EC of the European Parliament and of the Council of 20 July 1998 (OJ L 217, 5.8.1998, p. 18).';

2. the words 'Article 1(2)' in adaptation (a) shall be replaced by 'Article 1(3)';

3. adaptation (d) shall be replaced by the following:

   'The following shall be added to Article 8(2):

   The comments of the EFTA States shall be forwarded by the EFTA Surveillance Authority to the EC Commission in the form of a single coordinated communication and the comments of the Community shall be forwarded by the Commission to the EFTA Surveillance Authority. The Contracting Parties shall, when a six-month standstill is invoked according to the rules of their respective internal systems, and when a four-month standstill is invoked according to the internal system of the European Community or, in respect of the EFTA States, according to the following two paragraphs, inform each other thereof in a similar manner.

([1]) OJ L 15, 18.1.2001, p. 40.
([2]) OJ L 45, 15.2.2001, p. 47.
([3]) OJ L 217, 5.8.1998, p. 18.

The competent authorities of the EFTA States shall postpone for four months the adoption of any draft rule on services, from the date of receipt of the text of the draft regulation by the EFTA Surveillance Authority, if another EFTA State delivers a detailed opinion, within three months, to the effect that the measure envisaged may create obstacles to the free movement of services or to the freedom of establishment of service operators within the markets of the EFTA States.

With regard to draft rules on services, detailed opinions from EFTA States may not affect any cultural policy measures, in particular in the audiovisual sphere, which EFTA States might adopt in accordance with EEA law, taking account of their linguistic diversity, their specific national and regional characteristics and their cultural heritages.';

4. adaptation (e) shall be replaced by the following:

'Article 9 shall be replaced by the following:

1. The competent authorities of the EC Member States and the EFTA States shall postpone the adoption of draft technical regulations notified for three months from the date of receipt of the text of the draft regulation:

   — by the EC Commission in case of drafts notified by Member States of the Community,

   — by the EFTA Surveillance Authority for drafts notified by the EFTA States.

2. The standstill periods of paragraph 1 and Article 8(2) shall not apply in those cases where,

   — for urgent reasons relating to the protection of public health or safety, the protection of health and life of animals or plants, and for rules on services, also for public policy, notably the protection of minors, the competent authorities are obliged to prepare technical regulations in a very short space of time in order to enact and introduce them immediately without any consultations being possible, or where,

   — for urgent reasons occasioned by serious circumstances relating to the protection of the security and integrity of the financial system, notably the protection of depositors, investors and insured persons, the competent authorities are obliged to enact and implement rules on financial services immediately.

   The reasons which warrant the urgency of the measures taken shall be given. The justification for urgent measures shall be detailed and clearly explained with particular emphasis on the unpredictability and the seriousness of the danger confronting the concerned authorities as well as the absolute necessity for immediate action to remedy it.';

5. adaptation (g)(9) shall be replaced by the following:

'information that a four-month or a six-month standstill has been called;'.

Article 2

The following shall be inserted in Annex XI to the Agreement after point 5h (Directive 2000/31/EC of the European Parliament and of the Council):

'Information society services

5i. **398 L 0034**: Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations (OJ L 204, 21.7.1998, p. 37), as amended by:

— **398 L 0048**: Directive 98/48/EC of the European Parliament and of the Council of 20 July 1998 (OJ L 217, 5.8.1998, p. 18).

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

(a) the second subparagraph of Article 1(3) is replaced by the following:

"The term 'technical specification' also covers production methods and processes used in respect of products intended for human and animal consumption, and in medicinal products as defined in Article 1 of Directive 65/65/EEC (point 1 of Chapter XIII of Annex II to the Agreement), as well as production methods and processes relating to other products, where these have an effect on their characteristics.";

(b) the following shall be added to the end of the first subparagraph of Article 8(1):

"A full text of the draft technical regulation notified shall be made available in the original language as well as in a full translation into one of the official languages of the European Community.";

(c) the following shall be added to the fourth subparagraph of Article 8(1):

"The Community, on the one side, and the EFTA Surveillance Authority or the EFTA States through the EFTA Surveillance Authority, on the other side, may ask for further information on a draft technical regulation notified.";

(d) the following shall be added to Article 8(2):

"The comments of the EFTA States shall be forwarded by the EFTA Surveillance Authority to the EC Commission in the form of a single coordinated communication and the comments of the Community shall be forwarded by the Commission to the EFTA Surveillance Authority. The Contracting Parties shall, when a six-month standstill is invoked according to the rules of their respective internal systems, and when a four-month standstill is invoked according to the internal system of the European Community or, in respect of the EFTA States, according to the following two paragraphs, inform each other thereof in a similar manner.

The competent authorities of the EFTA States shall postpone for four months the adoption of any draft rule on services, from the date of receipt of the text of the draft regulation by the EFTA Surveillance Authority, if another EFTA State delivers a detailed opinion, within three months, to the effect that the measure envisaged may create obstacles to the free movement of services or to the freedom of establishment of service operators within the markets of the EFTA States.

With regard to draft rules on services, detailed opinions from EFTA States may not affect any cultural policy measures, in particular in the audiovisual sphere, which EFTA States might adopt in accordance with EEA law, taking account of their linguistic diversity, their specific national and regional characteristics and their cultural heritages.";

(e) Article 9 shall be replaced by the following:

"1. The competent authorities of the EC Member States and the EFTA States shall postpone the adoption of draft technical regulations notified for three months from the date of receipt of the text of the draft regulation

— by the EC Commission in case of drafts notified by Member States of the Community

— by the EFTA Surveillance Authority for drafts notified by the EFTA States.

2. The standstill periods of paragraph 1 and adaptation (d), paragraph 1, shall not apply in those cases where,

— for urgent reasons relating to the protection of public health or safety, the protection of health and life of animals or plants, and for rules on services, also for public policy, notably the protection of minors, the competent authorities are obliged to prepare technical regulations in a very short space of time in order to enact and introduce them immediately without any consultations being possible, or where,

— for urgent reasons occasioned by serious circumstances relating to the protection of the security and integrity of the financial system, notably the protection of depositors, investors and insured persons, the competent authorities are obliged to enact and implement rules on financial services immediately.

The reasons which warrant the urgency of the measures taken shall be given. The justification for urgent measures shall be detailed and clearly explained with particular emphasis on the unpredictability and the seriousness of the danger confronting the concerned authorities as well as the absolute necessity for immediate action to remedy it.";

(f) the following shall be added to Annex II:

"ICELAND

STRI

Staðlaráð Íslands

LIECHTENSTEIN

TPMN

Liechtensteinische Technische Prüf-, Mess- und Normenstelle

NORWAY

NSF

Norges Standardiseringsforbund

NEK

Norsk Elektroteknisk Komite

PT

Post- og teletilsynet";

(g) for the application of the Directive, the following communications by electronic means are considered necessary:

1. notification slips. They may be communicated before or together with the transmission of the full text;

2. acknowledgement of receipt of draft text containing, *inter alia*, the relevant expiry date of the standstill determined according to the rules of each system;

3. messages requesting supplementary information;

4. answers to request for supplementary information;

5. comments;

6. requests for ad hoc meetings;

7. answers to requests for ad hoc meetings;

8. requests for final texts;

9. information that a four-month or a six-month standstill has been called;

the following communications may, for the time being, be transmitted by normal mail, however electronic means are preferable:

10. the full text of the draft notified;

11. basic legal texts or regulatory provisions;

12. the final text;

(h) administrative arrangements concerning the communications shall be jointly agreed by the Contracting Parties.'

Article 3

The texts of Directive 98/48/EC in the Icelandic and Norwegian languages, to be published in the EEA Supplement to the *Official Journal of the European Communities*, shall be authentic.

Article 4

This Decision shall enter into force on 1 March 2001, provided that all the notifications under Article 103(1) of the Agreement have been made to the EEA Joint Committee (*).

Article 5

This Decision shall be published in the EEA section of, and in the EEA Supplement to, the *Official Journal of the European Communities*.

Done at Brussels, 28 February 2001.

For the EEA Joint Committee

The President

P. WESTERLUND

(*) No constitutional requirements indicated.