DECISION OF THE EEA JOINT COMMITTEE

No 94/2009

of 8 July 2009

amending Protocol 31, on cooperation in specific fields outside the four freedoms, and Protocol 37 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 Articles 86, 98 and 101 thereof,

Whereas:

(1) Protocol 31 to the Agreement was amended by Decision of the EEA Joint Committee No 93/2008 of 4 July 2008 [1].

(2) Protocol 37 to the Agreement was amended by Decision of the EEA Joint Committee No 76/2009 of 30 June 2009 [2].

(3) The participation of Iceland and Norway in the European GNSS Programmes (EGNOS and Galileo) on the basis of the Agreement is of mutual interest to the Contracting Parties.

(4) The European GNSS Programmes (EGNOS and Galileo) are of great importance for Iceland and Norway, with their respective territories and ocean areas at high latitudes.

(5) Iceland and Norway have an interest in all Galileo services, including the Public Regulated Services.

(6) The agreements between the European Community and Iceland and Norway, respectively, on security procedures for the exchange of classified information should be taken into account.

(7) The Contracting Parties recognise the intention of the European Commission to propose policies and operational arrangements to govern access to Public Regulated Services and to further develop measures to protect, control and manage sensitive assets, information and technologies of the European GNSS Programmes against interference, misuse, hostile attempts or undesired proliferation.

(8) Iceland and Norway reiterate their intention to adopt and enforce in a timely manner within their jurisdiction measures providing an equivalent degree of security and safety as those applicable in the European Union.

(9) Norway has participated in the definition and development phases of Galileo through the European Space Agency and the Community's Framework Programme for Research and Development.

(10) Norway has participated as observer in the GNSS Programme Committee since 2008 and in the Galileo Security Board since 2002.

(11) Since July 2008, changes in the governance, financing and ownership of European GNSS programmes are applicable.

(12) Additional cooperation principles may, if needed, be agreed between the Contracting Parties to regulate specific areas not covered by this Decision.

(13) Due account should be paid to the Contracting Parties' obligations under international law.

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[1] OJ L 280, 23.10.2008, p. 34.
[2] OJ L 232, 3.9.2009, p. 40.

(14) It is appropriate to extend the cooperation of the Contracting Parties to the Agreement to include Council Regulation (EC) No 1321/2004 of 12 July 2004 on the establishment of structures for the management of the European satellite radio-navigation programmes [1], as corrected by OJ L 6, 11.1.2007, p. 10.

(15) It is appropriate to extend the cooperation of the Contracting Parties to the Agreement to include Council Regulation (EC) No 1942/2006 of 12 December 2006 amending Regulation (EC) No 1321/2004 on the establishment of structures for the management of the European satellite radio-navigation programmes [2].

(16) It is appropriate to extend the cooperation of the Contracting Parties to the Agreement to include Regulation (EC) No 683/2008 of the European Parliament and of the Council of 9 July 2008 on the further implementation of the European satellite navigation programmes (EGNOS and Galileo) [3].

(17) Protocol 31 to the Agreement should therefore be amended in order to allow for this extended cooperation to take place from 1 January 2009. However, due to economic constraints, the participation of Iceland in the GNSS programmes should be suspended temporarily.

(18) On the basis of Norway's continuous participation in the definition and development phases of Galileo, and with a view to its full participation also in the deployment phase, Norway will contribute financially to the EU commitment budgeted for the GNSS programmes for the year 2008.

(19) For the Agreement to function well, Protocol 37 to the Agreement is to be extended to include the Scientific and Technical Committee and the System Safety and Security Committee set up by the Administrative Board in accordance with Regulation (EC) No 1321/2004, and Protocol 31 is to be amended in order to specify the procedures for association with these committees,

HAS DECIDED AS FOLLOWS:

Article 1

Article 1 of Protocol 31 to the Agreement shall be amended as follows:

1. the text of paragraph 8 shall be replaced by the following:

'(a) The EFTA States shall fully participate in the Supervisory Authority for the European Global Navigation Satellite System, hereinafter referred to as the "Authority", as set up by the following Community act:

— **32004 R 1321**: Council Regulation (EC) No 1321/2004 of 12 July 2004 on the establishment of structures for the management of the European satellite radio-navigation programmes (OJ L 246, 20.7.2004, p. 1), as corrected by OJ L 6, 11.1.2007, p. 10, as amended by:

— **32006 R 1942**: Council Regulation (EC) No 1942/2006 of 12 December 2006 (OJ L 367, 22.12.2006, p. 18).

(b) The EFTA States shall contribute financially to the activities referred to under (a) in accordance with Article 82(1)(a) of and Protocol 32 to the Agreement.

(c) The EFTA States shall participate fully, without the right to vote, in the Administrative Board of the Authority and in the Scientific and Technical Committee and the System Safety and Security Committee of the Authority.

[1] OJ L 246, 20.7.2004, p. 1.
[2] OJ L 367, 22.12.2006, p. 18.
[3] OJ L 196, 24.7.2008, p. 1.

(d) The Authority shall have legal personality. It shall enjoy in all the States of the Contracting Parties the most extensive legal capacity accorded to legal persons under their law.

(e) EFTA States shall apply to the Authority the Protocol of Privileges and Immunities of the European Communities.

(f) By way of derogation from Article 12(2)(a) of the Conditions of employment of other servants of the European Communities, nationals of the EFTA States enjoying their full rights as citizens may be engaged under contract by the Executive Director of the Authority.

(g) By virtue of Article 79(3) of the Agreement Part VII (Institutional Provisions) of the Agreement, with the exception of Sections 1 and 2 of Chapter 3, shall apply to this paragraph.

(h) Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents shall, for the application of this Regulation, apply to any documents of the Authority regarding the EFTA States as well.

(i) This paragraph shall not apply to Liechtenstein.

(j) With regard to Iceland, this paragraph shall be suspended until otherwise decided by the EEA Joint Committee.';

2. the following paragraph shall be inserted after paragraph 8:

'8a. (a) The EFTA States shall, as from 1 January 2009, participate in the activities which may result from the following Community act:

— **32008 R 0683**: Regulation (EC) No 683/2008 of the European Parliament and of the Council of 9 July 2008 on the further implementation of the European satellite navigation programmes (EGNOS and Galileo) (OJ L 196, 24.7.2008, p. 1).

(b) The EFTA States shall contribute financially to the activities referred to under (a) in accordance with Article 82(1)(a) of and Protocol 32 to the Agreement.

In addition, and based on Article 82(1)(c) of the Agreement, Norway shall contribute the amount of EUR 20 114 000 for the year 2008, of which half shall be due for payment by 31 August 2012 and the other half by 31 August 2013, to be included in the call for funds foreseen in Article 2(2), first subparagraph of Protocol 32.

(c) The EFTA States shall participate fully, without the right to vote, in all the Community committees which assist the European Commission in the management, development and implementation of the activities referred to under (a).

Without prejudice to this, the participation of EFTA States in the Community committees which assist the European Commission specifically in security aspects of the activities referred to under (a) may be subject to separate arrangements to be agreed upon between the EFTA States and the European Commission. Such arrangements should contribute to a coherent protection in the European Community and the EFTA States of data, information and technologies of European GNSS programmes and to compliance with the international commitments of the Contracting Parties in this sector.

(d) This paragraph shall not apply to Liechtenstein.

(e) With regard to Iceland, this paragraph shall be suspended until otherwise decided by the EEA Joint Committee.';

3. the text of paragraph 6 shall be replaced by the following:

'Evaluation and major direction of activities in the framework programmes of Community activities in the field of research and technological development referred to in paragraphs 5, 8a, 9 and 10 shall be governed by the procedure referred to in Article 79(3) of the Agreement.'

Article 2

The following points shall be inserted in Protocol 37 (containing the list provided for in Article 101) to the Agreement:

'30. The Scientific and Technical Committee (Council Regulation (EC) No 1321/2004).

31. The System Safety and Security Committee (Council Regulation (EC) No 1321/2004).'

Article 3

This Decision shall enter into force on the day following the last notification to the EEA Joint Committee under Article 103(1) of the Agreement (*).

It shall apply from 1 January 2009.

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, 8 July 2009.

For the EEA Joint Committee
The President
Oda Helen SLETNES

(*) No constitutional requirements indicated.