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ANNEX

ANNEX

to the

Proposal for a

COUNCIL DECISION

on the position to be adopted, on behalf of the European Union, within the EEA Joint Committee concerning an amendment to Annex IV (Energy) to the EEA Agreement

(Network code on capacity allocation mechanisms in gas transmission systems)

ANNEX

DRAFT DECISION OF THE EEA JOINT COMMITTEE

No […]

of […]

amending Annex IV (Energy) 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) Commission Regulation (EU) 2017/459 of 16 March 2017 establishing a network code on capacity allocation mechanisms in gas transmission systems and repealing Regulation (EU) No 984/2013[1] is to be incorporated into the EEA Agreement.

(2) According to Decision of the EEA Joint Committee No 93/2017 of 5 May 2017[2], Iceland has a derogation from Regulation (EC) No 715/2009 of the European Parliament and of the Council, which is the legal basis for Regulation (EU) 2017/459. Therefore, Regulation (EU) 2017/459 should not apply to Iceland.

(3) Article 2(3) of Regulation (EU) 2017/459 foresees that the Regulation shall not apply to interconnection points between Member States as long as one of these Member States has a derogation on the basis of Article 49 of Directive 2009/73/EC of the European Parliament and of the Council. In accordance with Directive 2009/73/EC, as incorporated into the EEA Agreement by Decision of the EEA Joint Committee No 93/2017 of 5 May 2017[3], such a derogation applies to Liechtenstein. Therefore, Regulation (EU) 2017/459 should not apply to Liechtenstein.

(4) There is no gas transmission network in Norway subject to the provisions of Regulation (EC) No 715/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the natural gas transmission networks and repealing Regulation (EC) No 1775/2005[4]. Therefore, Regulation (EU) 2017/459 should be incorporated into the EEA Agreement and transposed in national law, but application should be suspended until an operational gas transmission network is in place in Norway. When an operational gas transmission network is in place, Norway should notify the EFTA Surveillance Authority accordingly.

(5) As Regulation (EU) 2017/459 has been adopted on the basis of Regulation (EC) No 715/2009, the adaptation texts elaborated and adopted under Decision of the EEA Joint Committee No 93/2017 of 5 May 2017[5], incorporating Regulation (EC) No 715/2009 into the EEA Agreement, are relevant for the application of Regulation (EU) 2017/459.

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1 OJ L 72, 17.3.2017, p. 1.
2 OJ L 36, 7.2.2019, p. 44.
3 OJ L 36, 7.2.2019, p. 44.
4 OJ L 211, 14.8.2009, p. 36.
5 OJ L 36, 7.2.2019, p. 44.

(6) Annex IV to the EEA Agreement should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

The following point is inserted after point 49 (Commission Regulation (EU) 2015/703) of Annex IV to the EEA Agreement:

'50. **32017 R 0459**: Commission Regulation (EU) 2017/459 of 16 March 2017 establishing a network code on capacity allocation mechanisms in gas transmission systems and repealing Regulation (EU) No 984/2013 (OJ L 72, 17.3.2017, p. 1-28).

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

Norway may suspend the implementation of the Regulation until a gas transmission network starts operating on its territory. Norway shall notify the EFTA Surveillance Authority when a gas network is in place.

The Regulation shall not apply to Iceland and Liechtenstein.'

Article 2

The text of Commission Regulation (EU) 2017/459 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 5

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.]