DECISION OF THE EEA JOINT COMMITTEE

No 99/2009

of 25 September 2009

amending Annex XIII (Transport) 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 XIII to the Agreement was amended by Decision of the EEA Joint Committee No 85/2009 of 3 July 2009 [1].

(2) Decision of the EEA Joint Committee No 69/2009 of 29 May 2009 [2] incorporated Regulation (EC) No 300/2008 of the European Parliament and of the Council [3] into the Agreement and repealed Regulation (EC) No 2320/2002 of the European Parliament and of the Council [4] under the Agreement.

(3) Regulation (EC) No 2320/2002 should continue to apply under the Agreement until the day of the entry into force of the last of the Decisions of the EEA Joint Committee incorporating into the Agreement the measures necessary for the applicability of Regulation (EC) No 300/2008.

(4) Regulation (EC) No 2320/2002 should therefore be re-incorporated into the Agreement with a specific adaptation.

(5) Regulation (EC) No 2320/2002 shall be repealed under the Agreement with effect from the date on which the last of the Decisions of the EEA Joint Committee incorporating into the Agreement the measures necessary for the applicability of Regulation (EC) No 300/2008 enters into force.

(6) An adaptation text concerning a Memorandum of Understanding concerning audits with the International Civil Aviation Organisation should be added with regard to Regulation (EC) No 300/2008,

HAS DECIDED AS FOLLOWS:

Article 1

Annex XIII to the Agreement shall be amended as follows:

1. the text of point 66h (Regulation (EC) No 300/2008 of the European Parliament and of the Council) shall be amended as follows:

   (i) adaptations (b), (c) and (d) shall be renumbered as adaptations (c), (d) and (e);

   (ii) the following adaptation shall be inserted after adaptation (a):

   '(b) Article 8 shall not apply with regard to the EFTA States.

[1] OJ L 277, 22.10.2009, p. 37.
[2] OJ L 232, 3.9.2009, p. 25.
[3] OJ L 97, 9.4.2008, p. 72.
[4] OJ L 355, 30.12.2002, p. 1.

If the Commission, on the basis of Article 8, concludes a Memorandum of Understanding concerning audits with the International Civil Aviation Organisation (ICAO), the EFTA States will endeavour to conclude with ICAO a Memorandum of Understanding corresponding to the one of the Commission.';

2. the following point shall be inserted after point 66ha (Commission Regulation (EC) No 272/2009):

'66hb. **32002 R 2320**: Regulation (EC) No 2320/2002 of the European Parliament and of the Council of 16 December 2002 establishing common rules in the field of civil aviation security (OJ L 355, 30.12.2002, p. 1), as amended by:

— **32004 R 0849**: Regulation (EC) No 849/2004 of the European Parliament and of the Council of 29 April 2004 (OJ L 158, 30.4.2004, p. 1), as corrected by OJ L 229, 29.6.2004, p. 3.

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

(a) the measures laid down in this Regulation shall not apply to domestic air services at airports in the territory of Iceland;

(b) the measures laid down in this Regulation shall not apply to the existing civil aviation infrastructure in the territory of Liechtenstein;

(c) this Regulation shall apply until the date on which the last of the Decisions of the EEA Joint Committee incorporating into the Agreement the measures necessary for the applicability of Regulation (EC) No 300/2008 enters into force.';

3. the text of point 66hb (Regulation (EC) No 2320/2002 of the European Parliament and of the Council) shall be deleted with effect from the date on which the last of the Decisions of the EEA Joint Committee incorporating into the Agreement the measures necessary for the applicability of Regulation (EC) No 300/2008 enters into force.

Article 2

This Decision shall enter into force on 26 September 2009, provided that all the notifications under Article 103(1) of the Agreement have been made to the EEA Joint Committee (*), or on the day of the entry into force of Decision of the EEA Joint Committee No 69/2009 of 29 May 2009, whichever is the later.

Article 3

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, 25 September 2009.

For the EEA Joint Committee
The President
Oda Helen SLETNES

(*) No constitutional requirements indicated.