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DECISION OF THE EEA JOINT COMMITTEE
No 98/2003

of 11 August 2003

amending Annex IX (Financial 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 IX to the Agreement was amended by Decision of the EEA Joint Committee No 47/2003 of 16 May 2003¹.
- (2) Directive 2001/97/EC of the European Parliament and of the Council of 4 December 2001 amending Council Directive 91/308/EEC on prevention of the use of the financial system for the purpose of money laundering² is to be incorporated into the Agreement.
- (3) Directive 2001/97/EC is to be adapted for the purposes of the Agreement,

HAS DECIDED AS FOLLOWS:

Article 1

The following shall be added in point 23 (Council Directive 91/308/EEC) of Annex IX to the Agreement before the modalities for association of the EFTA States in accordance with Article 101 of the Agreement:

¹ OJ L 193, 31.7.2003, p. 18.

² OJ L 344, 28.12.2001, p. 76.

‘, as amended by:

- **32001 L 0097:** Directive 2001/97/EC of the European Parliament and of the Council of 4 December 2001 (OJ L 344, 28.12.2001, p. 76).

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

Article 1(E) second paragraph, third indent shall be replaced with the following:

“fraud, at least serious, affecting the European Communities’ financial interests shall consist of:

- (a) in respect of expenditure, any intentional act or omission relating to:
 - the use or presentation of false, incorrect or incomplete statements or documents, which has as its effect the misappropriation or wrongful retention of funds from the general budget of the European Communities or budgets managed by, or on behalf of, the European Communities,
 - non-disclosure of information in violation of a specific obligation, with the same effect,
 - the misapplication of such funds for purposes other than those for which they were originally granted;
- (b) in respect of revenue as defined in Council Decision of 29 September 2000 on the system of the European Communities’ own resources³ any intentional act or omission relating to:
 - the use or presentation of false, incorrect or incomplete statements or documents, which has as its effect the illegal diminution of the resources of the general budget of the European Communities or budgets managed by, or on behalf of, the European Communities,
 - non-disclosure of information in violation of a specific obligation, with the same effect,
 - misapplication of a legally obtained benefit, with the same effect.

Serious fraud shall be considered to be fraud involving a minimum amount not to be set at a sum exceeding Euro 50 000.”

Article 2

The texts of Directive 2001/97/EC in the Icelandic and Norwegian languages, to be published in the EEA Supplement to the *Official Journal of the European Union*, shall be authentic.

³ OJ L 253, 7.10.2000, p. 42.

Article 3

This Decision shall enter into force on 12 August 2003, provided that all the notifications under Article 103(1) of the Agreement have been made to the EEA Joint Committee* .

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, 11 August 2003.

*For the EEA Joint Committee
The President*

H. S. H. Prinz Nikolaus von Liechtenstein

*The Secretaries
to the EEA Joint Committee*

P.K. Mannes

M. Brinkmann

*Constitutional requirements indicated.

Joint Declaration by the Contracting Parties

to the Decision of the EEA Joint Committee No 98/2003 of 11 August 2003 incorporating Directive 2001/97/EC on of the European Parliament and of the Council of 4 December 2001 amending Council Directive 91/308/EEC on prevention of the use of the financial system for the purpose of money laundering

When adopting this Decision No 98/2003 it is understood that the incorporation into the EEA Agreement of change in the revenue as defined in Article 2 (2) of Council Decision of 29 September 2000 on the system of the European Communities' own resources⁴ has to be taken by EEA Joint Committee decision.

⁴ OJ L 253, 7.10.2000, p. 42.

Joint Declaration by the EEA EFTA States

to the Decision of the EEA Joint Committee No 98/2003 of 11 August 2003 incorporating Directive 2001/97/EC on of the European Parliament and of the Council of 4 December 2001 amending Council Directive 91/308/EEC on prevention of the use of the financial system for the purpose of money laundering

The EEA EFTA States have agreed to include fraud against the financial interests of the European Community in the list of predicate offences to money laundering. For practical reasons, the Second Money Laundering Directive has been adopted without a reciprocal agreement to protect likewise the financial interests of the EEA EFTA States. Nevertheless, the principles of reciprocity and homogeneity as laid down in the EEA Agreement, particularly in its Recital 4 and Article 1, remain fully applicable also to the mutual protection of the financial interests of the contracting parties in the meaning of Decision No 98/2003.

Declaration by the Commission

to the Decision of the EEA Joint Committee No 98/2003 of 11 August 2003 incorporating Directive 2001/97/EC on of the European Parliament and of the Council of 4 December 2001 amending Council Directive 91/308/EEC on prevention of the use of the financial system for the purpose of money laundering

The Commission declares that the Community revenue is currently mainly made up of Community own resources as defined by Council Decision of 29 September 2000 on the system of the European Communities' own resources.

Fraud affecting the EC financial interests currently covers, on the revenue side, mainly fraud in the field of customs duties, agricultural levies and VAT.