

DECISION OF THE EEA JOINT COMMITTEE
No 259/2018

of 5 December 2018

amending Annex XX (Environment) 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) No 1031/2010 of 12 November 2010 on the timing, administration and other aspects of auctioning of greenhouse gas emission allowances pursuant to Directive 2003/87/EC of the European Parliament and of the Council establishing a scheme for greenhouse gas emission allowances trading within the Community¹ was incorporated into the EEA Agreement by Decision No 152/2012 of 26 July 2012².
- (2) Twenty-five Member States (hereafter, the ‘participating Member States’) and the European Commission, on behalf of the European Union, have entered into the Joint Procurement Agreement to Procure Common Auction Platforms³, and all Member States (hereafter, the ‘Member States’) and the European Commission, on behalf of the European Union, have entered into the Joint Procurement Agreement to Procure an Auction Monitor⁴ (hereafter ‘the joint procurement agreements’).
- (3) Article 165 of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012⁵ provides for the possibility for the European Union to conduct joint procurement procedures with the European Free Trade Association (EFTA) States or Union candidate countries if this possibility has been specifically provided for in a bilateral or multilateral treaty.
- (4) To this regard, EFTA States which are contracting parties to the EEA Agreement have decided to conduct a joint procurement, together with the Commission and the participating Member States, for appointing one or more auction platform(s) provided for in Article 26(1) of the Commission Regulation (EU) No 1031/2010 of 12 November 2010, and with the Commission and the Member States for appointing an

¹ OJ L 302, 18.11.2010, p. 1.

² OJ L 309, 8.11.2012, p. 38.

³ https://ec.europa.eu/clima/sites/clima/files/ets/auctioning/docs/en_cap_en.pdf

⁴ https://ec.europa.eu/clima/sites/clima/files/ets/auctioning/docs/en_am_en.pdf

⁵ OJ L 193, 30.7.2018, p. 1.

auction monitor provided for in Article 24 of the said Regulation, following a joint procurement procedure in the meaning of Article 165 of Regulation (EU, Euratom) 2018/1046.

- (5) Commission Regulation (EU) 2017/1902 of 18 October 2017 amending Commission Regulation (EU) No 1031/2010 to align the auctioning of allowances with Decision (EU) 2015/1814 of the European Parliament and of the Council and to list an auction platform to be appointed by the United Kingdom⁶ is to be incorporated into the EEA Agreement.
- (6) Annex XX to the EEA Agreement should therefore be amended accordingly.
- (7) Participation of the EFTA States in the joint procurements shall be underpinned by them becoming parties to the joint procurement agreements. In line with the terms of the joint procurement agreements that allow for the possibility for the EFTA States to join the joint action, the Commission is authorised to sign on behalf of each Member State an agreement with the EFTA States whereby the EFTA States join the joint procurement agreements,

HAS ADOPTED THIS DECISION:

Article 1

Annex XX to the EEA Agreement shall be amended as follows:

1. The following indent is added in point 21ala (Commission Regulation (EU) No 1031/2010):
 - ‘- **32017 R 1902**: Commission Regulation (EU) 2017/1902 of 18 October 2017 (OJ L 269, 19.10.2017, p. 13).’
2. The adaptations in point 21ala (Commission Regulation (EU) No 1031/2010) shall be replaced by the following:
 - ‘(a) As regards the EFTA States, the first sentence of Article 22(7) shall read as follows:

“The EFTA States shall notify the identity of the auctioneer(s) and its (their) contact details to the EFTA Surveillance Authority, which will forward the information to the Commission.”;
 - (b) The following sentence shall be added in Article 24(2):

“Subject to the conclusion by the EFTA States and by the Commission on its own account and on behalf of the Member States of an agreement whereby the EFTA States join the Joint Procurement Agreement to Procure an Auction Monitor, the EFTA States shall participate in the joint action pursuant to this Article.”;
 - (c) The following sentence shall be added in Article 26(1):

“Subject to the conclusion by the EFTA States and by the Commission on its own account and on behalf of the participating Member States of an agreement

⁶ OJ L 269, 19.10.2017, p. 13.

whereby the EFTA States join the Joint Procurement Agreement to Procure Common Auction Platforms, the EFTA States shall participate in the joint action pursuant to this Article.”;

- (d) Articles 30 to 32 shall not apply to the EFTA States;
- (e) The following subparagraph shall be added in Article 52(3):

“The share of the costs of the auction monitor relating to the auction platform appointed pursuant to Article 26(1) shall be distributed between the Member States participating in the joint action and the EFTA States in accordance with their shares of the total volume of allowances auctioned on the auction platform concerned.”

Article 2

The text of Regulation (EU) 2017/1902 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 6 December 2018, provided that all the notifications under Article 103(1) of the EEA Agreement have been made*.

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, 5 December 2018.

*For the EEA Joint Committee
The President*

Oda Helen Sletnes

*The Secretaries
To the EEA Joint Committee*

* [No constitutional requirements indicated.]

Hege M. Hoff

Mikołaj Karłowski

Provisional text