

DECISION OF THE JOINT EFTA-TURKEY COMMITTEE

No. 3 of 2009

(Adopted on 3 December 2009)

MUTUAL RECOGNITION OF CONFORMITY ASSESSMENT OF PRODUCTS

THE JOINT COMMITTEE,

Having regard to paragraph 1 of Article 10 of the Free Trade Agreement between the EFTA States and Turkey signed on 10 December 1991, hereafter referred to as “this Agreement”, which states that the Parties shall co-operate in the field of technical regulations, standards and conformity assessment procedures, and through appropriate measures promote European-wide solutions,

Having regard to Protocol 12 of the Agreement on the European Economic Area (EEA Agreement), concerning the conclusion of parallel mutual recognition agreements between the EEA EFTA States and third countries, equivalent to those concluded by the European Community (EC) and third countries,

Having regard to the EC-Switzerland Mutual Recognition Agreement,

Having regard to Articles 9 and 10 of Decision No 1/95, Decision No 2/97 and Decision No 1/2006 of the EC-Turkey Association Council,

Bearing in mind their status as parties to the Agreement establishing the World Trade Organisation and conscious in particular of their obligations under the World Trade Organisation Agreement on Technical Barriers to Trade,

Noting that mutual recognition of the results of conformity assessment of products is necessary to avoid duplication of testing and certification, thereby stimulating trade between the Parties,

Having regard to Article 28 of this Agreement,

DECIDES as follows:

1. A new paragraph 4 shall be added to Article 10 of this Agreement:

“4. Protocol E lays down the rules for mutual recognition of conformity assessment of products in harmonised product sectors.”

2. The text set out in the Annex to this Decision shall be added as a new Protocol to this Agreement, entitled “Protocol E”.
3. The above-mentioned amendments shall enter into force when all the Parties have deposited the instruments of acceptance with the Depositary, which shall notify all the other Parties.
4. The Secretary-General of the European Free Trade Association shall deposit the text of this Decision with the Depositary.

## Protocol E

### Mutual Recognition of Conformity Assessment of Products

#### **Article 1 – Purpose**

The purpose of this Protocol is to reduce the technical barriers to trade and contribute to the free movement of goods between Turkey and the EFTA States in relation to conformity assessment of industrial products.

#### **Article 2 – Definitions**

The following definitions apply to this Protocol:

**EFTA States:** The Republic of Iceland, the Principality of Liechtenstein, the Kingdom of Norway and the Swiss Confederation.

**EEA EFTA States:** Those EFTA States that are parties to the EEA Agreement, i.e. the Republic of Iceland, the Principality of Liechtenstein, the Kingdom of Norway. When used in the Agreement, without exception, it refers to the three States collectively.

**Conformity Assessment Body:** A body engaged in the performance of procedures to determine whether the relevant requirements in technical regulations or standards are fulfilled.

**Harmonised product sector:** Product sector covered by the EC legislation with a legal basis in Article 95 or equivalent, of the Treaty establishing the European Community.

**EEA Agreement** (for the purpose of this Protocol): the Agreement on the European Economic Area of 1992 and any EC act referred to in Annex II to that Agreement, including amendments before and after the entry into force of this Protocol.

**EC-Swiss MRA** (for the purpose of this Protocol): EC-Swiss Mutual Recognition Agreement of 1999, including amendments before and after the entry into force of this Protocol. That Agreement also applies to Liechtenstein (through the Customs Union Treaty of 1923 concluded between Switzerland and Liechtenstein).

**EC-Turkey Customs Union** (for the purpose of this Protocol): the Ankara Agreement between the EC and Turkey and Decisions adopted by the EC–Turkey Association Council, in particular Decision No 1/95, No 2/97, No 1/2006, and including amendments before and after the entry into force of this Protocol.

### **Article 3 – Scope**

1. This Protocol applies in each EFTA State and in Turkey.
2. This Protocol covers all harmonised product sectors in trade between the EEA EFTA States and Turkey.
3. In trade between Turkey and Switzerland, this Protocol applies to the sectors that are covered by the EC-Swiss MRA where the respective legislation under this agreement is deemed equivalent.
4. The provisions of this Protocol shall apply to products covered by this Protocol irrespective of their origin.

### **Article 4 – Legislation**

1. The product requirements in the EC–Turkey Customs Union apply to products to be placed on the Turkish market.
2. The product requirements in the EEA Agreement apply to products to be placed on the market of the EEA EFTA States.
3. The product requirements in the EC–Swiss MRA apply to products to be placed on the Swiss market.

### **Article 5 – Conformity assessment**

The Parties agree to mutually accept the results of conformity assessment procedures carried out by conformity assessment bodies notified or accepted under the EEA Agreement, the EC-Swiss MRA or the EC-Turkey Customs Union.<sup>1</sup>

### **Article 6 - Verification of notified bodies**

1. If a Party has grounds for doubts about the quality of the conformity assessment carried out by a body of the other Party concerned, it may request the other Party to verify the technical competence and compliance with the relevant legal provisions applicable to that body. Specific reasons shall be given for such a request in order to allow the Party responsible for the notification to carry out the requested verification and report speedily to the other Party. The Parties shall ensure the full cooperation, take all the appropriate steps and use all available means necessary to resolve any problems which are detected.

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<sup>1</sup> The list of notified or accepted conformity assessment bodies under this paragraph is to be found under the following address: <http://www.efta.int/mra/not-and-acc-conformity>.

2. If the problems cannot be resolved to the satisfaction of both Parties, they may notify the Subcommittee established under Article 9 of their dissent, giving their reasons. The Subcommittee shall decide on appropriate action within a period of two months.
3. Unless decided otherwise by the Subcommittee within the period laid down in paragraph 2, the notification of the body and the recognition of its competence to assess conformity under this Protocol shall be suspended in part or in full at the end of that period by the designating authority.
4. After the expiry of the period laid down in paragraph 2, if new elements emerge, a Party may request the Subcommittee to decide that the suspension provided for in paragraph 3 be reviewed. In that case, experts from both Parties shall jointly examine the conformity assessment body concerned and report their findings to the designating authority and the Subcommittee. On the basis of this report, the Subcommittee may decide if the suspension should be withdrawn.

#### **Article 7 – Authorised representatives in the area of medical devices**

With regard to the designation of an authorised representative according to EC Directives 90/385/EEC, 93/42/EEC and 98/79/EC and their corresponding rules as transposed into national legislation, it shall be sufficient for the purpose of this Protocol to have the manufacturer established or to designate such a representative either in the EC, in an EFTA State or in Turkey.

#### **Article 8 – Exchange of information**

1. The Parties shall exchange all relevant information regarding the application of this Protocol, including information on the procedure to ensure compliance by notified bodies.
2. Switzerland shall notify Turkey of all changes in the scope of the sectors in the EC-Swiss MRA that are deemed equivalent.
3. Contact points between the Parties are hereby established, allowing for informal contacts by email or telephone in order to deal with matters that require the immediate involvement of experts.

#### **Article 9 – Subcommittee on Mutual Recognition of Conformity Assessment of Products**

1. A Subcommittee on Mutual Recognition of Conformity Assessment of Products is hereby established to assist the Joint Committee. The Subcommittee shall consist of representatives from all the Parties to this Agreement and shall meet at the request of a

Party, in conjunction with other relevant meetings where possible. The Subcommittee shall act by consensus.

2. The Subcommittee shall adopt its rules of procedure.
3. The Subcommittee shall be responsible for:
  - a) preparing amendments to this Protocol;
  - b) monitoring the implementation of this Protocol;
  - c) the use of the verification of notified bodies in Article 6;
  - d) exchanging information in accordance to Article 8; and
  - e) improving technical cooperation and exchange experience among Parties in the fields of mutual interest.

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