

DECISION OF THE EEA JOINT COMMITTEE
No 156/2011

of 2 December 2011

amending Annex XX (Environment) 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 XX to the Agreement was amended by Decision of the EEA Joint Committee No 122/2011 of 21 October 2011¹.
- (2) Commission Regulation (EU) No 920/2010 of 7 October 2010 for a standardised and secured system of registries pursuant to Directive 2003/87/EC of the European Parliament and of the Council and Decision No 280/2004/EC of the European Parliament and of the Council² is to be incorporated into the Agreement.
- (3) Commission Regulation (EU) No 920/2010 repeals, with effect from 1 January 2012, Commission Regulation (EC) No 2216/2004³ which is incorporated into the Agreement and which is therefore to be repealed from the Agreement.
- (4) Decision No 280/2004/EC of the European Parliament and of the Council of 11 February 2004 concerning a mechanism for monitoring Community greenhouse gas emissions and for implementing the Kyoto Protocol⁴ has not been incorporated into the Agreement and therefore the specific reporting requirements foreseen in that Decision do not apply to the EFTA States.
- (5) The EFTA States shall be included in the European Union Transaction Log (EUTL). The EUTL's Central Administrator shall perform his tasks with regard to the EFTA States, and the EFTA Surveillance Authority shall be the competent body to give the necessary instructions to the Central Administrator in relation to

¹ OJ L 341, 22.12.2011, p. 87.

² OJ L 270, 14.10.2010, p. 1.

³ OJ L 386, 29.12.2004, p. 1.

⁴ OJ L 49, 19.2.2004, p. 1.

provisions relating to the application of Regulation (EU) No 920/2010 for the EFTA States.

- (6) Pursuant to EEA Joint Committee Decision No 146/2007, Iceland was exempted from the requirement to submit a national allocation plan for the 2008-2012 period. Accordingly, the provisions of this Regulation concerning the allocation to operators of installations in 2008-2012 should not apply with regard to Iceland.
- (7) Pursuant to EEA Joint Committee Decision No 146/2007, stationary installations in Iceland that would have fallen within the scope of application of Directive 2003/87/EC of the European Parliament and of the Council⁵ for the 2008-2012 period were exempted from the scope of the Directive during that period. Iceland has therefore not established a National Registry in relation to the EU Emissions Trading Scheme (EU ETS). Accordingly, the deadline for initiating the procedure foreseen for opening the operator holding accounts in the Union Registry needs to be adjusted. In the case of Icelandic stationary installations for which a greenhouse gas emissions permit has already been issued by the competent authority, the procedure will start on the date of the entry into force of the present Decision, or from the date the Union Registry is operational for Iceland, whichever is later.
- (8) The Union aviation allocation table contained in the EUTL should reflect the extension of the EU ETS for aviation activities to the EFTA States. Therefore the Union aviation allocation table should tabulate the EEA-wide number of Chapter II allowances to be allocated in 2012.
- (9) The Contracting Parties understand that the specific nature of the EU ETS and the related standardised and secured system of registries pursuant to Directive 2003/87/EC, providing for the establishment of a Union Registry, require special rules on data storage and access regarding the Union Registry to ensure that the greenhouse gas emission allowances conform to the functional and technical specifications for data exchange standards for registry systems under the Kyoto Protocol, and that transfers of such allowances are compatible with the obligations resulting from the Kyoto Protocol.
- (10) The Contracting Parties recognise that it is essential for the law enforcement and tax authorities of a Contracting Party, the European Anti-fraud Office of the European Commission, Europol and national administrators of Contracting Parties to be granted the right to obtain certain data stored in the Union Registry and in the EUTL in clearly defined cases for the purposes of the investigation, detection and prosecution of fraud, tax administration or enforcement, money laundering, terrorism financing or serious crime as set forth in Article 75 of Regulation (EU) No 920/2010.

⁵ OJ L 275, 25.10.2003, p. 32.

- (11) The Contracting Parties recall that the granting of information rights as foreseen in Article 75 of Regulation (EU) No 920/2010 is without prejudice to the understanding that police and judicial cooperation in criminal matters as well as tax administration or enforcement fall outside the scope of the EEA Agreement, and that the Regulation therefore does not confer on the institutions mentioned any other rights than those explicitly mentioned in its Article 75,

HAS ADOPTED THIS DECISION:

Article 1

The text of point 21an (Commission Regulation (EC) No 2216/2004) of Annex XX to the Agreement shall be replaced by the following:

‘32010 R 0920: Commission Regulation (EU) No 920/2010 of 7 October 2010 for a standardised and secured system of registries pursuant to Directive 2003/87/EC of the European Parliament and of the Council and Decision No 280/2004/EC of the European Parliament and of the Council (OJ L 270, 14.10.2010, p. 1).

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

- (a) The issue, transfer and cancellation of allowances concerning the EFTA States, their operators and the aircraft operators administered by them shall be registered in the European Union Transaction Log (EUTL).

The Central Administrator shall be competent to perform the tasks referred to in paragraphs 1 to 3 of Article 20 of Directive 2003/87/EC when the EFTA States, their operators or the aircraft operators administered by them are concerned.

- (b) The provisions relating to the allocation of allowances to operators of installations for the 2008-2012 period shall not apply with regard to Iceland.
- (c) In Article 6(5), the following sentence shall be added:

“The EFTA Surveillance Authority shall coordinate the implementation of this Regulation with the registry administrators of each EFTA State and the Central Administrator.”

- (d) The following paragraph shall be added in Article 15:

“4. In relation to Icelandic stationary installations for which a greenhouse gas emissions permit has been issued by the competent authority prior to the entry into force of the present Decision, the

procedure for opening the operator holding accounts in the Union Registry will start either from the date of the entry into force of the present Decision, or from the date the Union Registry is operational for Iceland, whichever is later.”

(e) Article 34(1)(a) shall read:

“The total number of Chapter II allowances to be allocated in the European Economic Area in 2012;”

(f) The following sub-paragraph shall be added in Articles 35(2) and 37(2):

“Where national allocation plan tables of the EFTA States are concerned, the Central Administrator shall be instructed by the EFTA Surveillance Authority.”

(g) The following sub-paragraph shall be added in Articles 36 and 38(3):

“Where the Chapter II allowance allocation decisions taken by EFTA States are concerned, the Central Administrator shall be instructed by the EFTA Surveillance Authority.”

(h) The following paragraph shall be added in Article 65:

“6. Where registries in the EFTA States are concerned, the Central Administrator shall be instructed by the EFTA Surveillance Authority.”

(i) In Annex XII, the “Union-wide quantity of Chapter II allowances in 2012” shall refer to the EEA-wide quantity of Chapter II allowances in 2012 as determined by the EEA Joint Committee Decision No 93/2011 of 20 July 2011.’

Article 2

The texts of Regulation (EU) No 920/2010 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 1 January 2012 or on the day following the last notification to the EEA Joint Committee under Article 103(1) of the Agreement*, whichever is the later.

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, 2 December 2011.

For the EEA Joint Committee

The President

Kurt Jäger

The Secretaries

to the EEA Joint Committee

Bergdís Ellertsdóttir Gianluca Grippa

* No constitutional requirements indicated.