

Agreement on the
European Economic Area

The EEA Joint Committee

DECISION OF THE EEA JOINT COMMITTEE
No 12/97
of 14 March 1997

amending Annex XIV (Competition)
to the EEA Agreement

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area, as adjusted by the Protocol Adjusting the Agreement on the European Economic Area, hereinafter referred to as the Agreement, and in particular Article 98 thereof,

Whereas Annex XIV to the Agreement was amended by Decision of the EEA Joint Committee No 65/96 of 27 November 1996¹,

Whereas Commission Regulation (EEC) No 2349/84 and Commission Regulation (EEC) No 556/89 are included in Annex XIV of the Agreement,

Whereas Commission Regulation (EC) No 240/96 of 31 January 1996 on the application of Article 85(3) of the Treaty to certain categories of technology transfer agreements² replaces Regulations (EEC) Nos. 2349/84 and 556/89 with a single regulation;

Whereas Commission Regulation (EC) No 240/96 is therefore to be incorporated into the Agreement and the relevant chapters and points of Annex XIV amended accordingly,

HAS DECIDED AS FOLLOWS:

¹ OJ No L 71, 13.3.1997, p. 38.

² OJ No L 31, 9.2.1996, p. 2.

Article 1

Annex XIV of the Agreement shall be amended as specified below:

1. In Chapter C, the title “Patent licensing agreement” shall be replaced by “Technology transfer agreements.”.
2. The text of point 5 shall be replaced by the following :

“**396 R 0240:** Commission Regulation (EC) No 240/96 of 31 January 1996 on the application of Article 85(3) of the Treaty to certain categories of technology transfer agreements (OJ No L 31,9.2.1996,p.2).

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

- (a) In Article 1(4) the term “Member States” shall read “EC Member States or EFTA States”;
- (b) in Article 4(1), the phrase “on condition that the agreements in question are notified to the Commission in accordance with the provisions of Articles 1, 2 and 3 of Regulation (EC) No 3385/94 and that the Commission does not oppose such exemption within a period of four months” shall read “on condition that agreements in question are notified to the EC Commission or the EFTA Surveillance Authority in accordance with Articles 1,2 and 3 of Regulation (EC) No 3385/94, and the corresponding provisions envisaged in Protocol 21 to the EEA Agreement and Chapter III of Protocol 4 to the Agreement on the Establishment of a Surveillance Authority and a Court of Justice, and that the competent surveillance authority does not oppose such exemption within a period of four months.”.
- (c) In Article 4(3), the phrase “in accordance with Article 4 of Regulation (EC) No 3385/94” shall read “in accordance with Article 4 of Regulation (EC) No 3385/94, and the corresponding provisions envisaged in Protocol 21 to the EEA Agreement and Chapter III of Protocol 4 to the Agreement on the Establishment of a Surveillance Authority and a Court of Justice.”;
- (d) In Article 4(5), the second sentence shall be replaced by the following:

“It shall oppose exemption if it receives a request to do so from a State falling within its competence within two months of the transmission to the States of the notification referred to in paragraph 1 or of the communication referred to in paragraph 4.”;
- (e) In Article 4(6) the second sentence shall be replaced by the following:

“However, where the opposition was raised at the request of a State falling within its competence and this request is maintained, it may be withdrawn only after consultation of its Advisory Committee on Restrictive Practices and Dominant Position.”;
- (f) The following shall be added at the end of Article 4(9):

“, or the corresponding provisions in Protocol 21 to the EEA Agreement and Chapter II of Protocol 4 to the Agreement on the Establishment of a Surveillance Authority and a Court of Justice.”;

- (g) In Article 7, introductory paragraph, the phrase “pursuant to Article 7 of Regulation No 19/65/EEC” shall read “either on its own initiative or at the request of the other surveillance authority or a State falling within its competence or of natural or legal persons claiming a legitimate interest”;
 - (h) The following paragraph shall be added at the end of Article 7:

“The competent authority may in such cases issue a decision in accordance with Articles 6 and 8 of Regulation (EEC) No 17/62, or the corresponding provisions in Protocol 21 to the EEA Agreement and Chapter II of Protocol 4 to the Agreement on the Establishment of a Surveillance Authority and a Court of Justice, without any prior notification being required”;
 - (i) In Article 10(13), the term “Member States” shall read “EC Member State or EFTA State.”
3. In Chapter F, the title “Know-how licensing agreements” and the text of point 9 (Commission Regulation (EEC) No 556/89) shall be deleted.””.

Article 2

The texts of Commission Regulation (EC) No 240/96 in the Icelandic and Norwegian languages, which are annexed to the respective language versions of this Decision, are authentic.

Article 3

This Decision shall enter into force on 1 April 1997, provided that all the notifications under Article 103(1) of the Agreement have been made to the EEA Joint Committee. It shall apply from 1 April 1996. The individual EFTA States may lay down transitional measures for the period between 1 January 1996 and the date of adoption to the extent necessary for constitutional reasons.

Article 4

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the Official Journal of the European Communities.

Done at Brussels, 14 March 1997.

For the EEA Joint Committee
The President

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C. Day

The Secretaries
to the EEA Joint Committee

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G. Vik

E. Gerner

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