ANNEX XII

FREE MOVEMENT OF CAPITAL

List provided for in Article 40

INTRODUCTION

When the act referred to in this Annex contains notions or refers to procedures which are specific to the Community legal order, such as

- preambles;
- the addressees of the Community acts;
- references to territories or languages of the EC;
- references to rights and obligations of EC Member States, their public entities, undertakings or individuals in relation to each other; and
- references to information and notification procedures;

Protocol 1 on horizontal adaptations shall apply, unless otherwise provided for in this Annex.

TRANSITION PERIOD{[1]}

The transitional arrangements set out in the Annexes to the Act of Accession of 16 April 2003 for the Czech Republic (Annex V, Chapter 2), Estonia (Annex VI, Chapter 3), Cyprus (Annex VII, Chapter 3), Latvia (Annex VIII, Chapter 3), Lithuania (Annex IX, Chapter 4), Hungary (Annex X, Chapter 3), Poland (Annex XII, Chapter 4), Slovenia (Annex XIII, Chapter 4) and Slovakia (Annex XIV, Chapter 3), shall apply.

{[2]}The transitional arrangements set out in the Annexes to the Act of Accession of 25 April 2005 or, as the case may be, to the Protocol of Accession of 25 April 2005 for Bulgaria (Annex VI, Chapter 3) and Romania (Annex VII, Chapter 3), shall apply.

SECTORAL ADAPTATIONS{[3]}

The arrangement contained in Protocol No 6 to the Act of Accession of 16 April 2003 on the acquisition of secondary residences in Malta shall apply.

ACT REFERRED TO

1. **388 L 0361**: Council Directive 88/361/EEC of 24 June 1988 for the implementation of Article 67 of the Treaty (OJ No L 178, 8.7.1988, p. 5).

{[1]} Heading and text added by the 2004 EEA Enlargement Agreement (OJ No L 130, 29.4.2004, p. 3 and EEA Supplement No 23, 29.4.2004, p. 1), e.i.f. 1.5.2004.

{[2]} Text inserted by the 2007 EEA Enlargement Agreement (OJ No L 221, 25.8.2007 and EEA Supplement No 39, 26.7.2008), provisionally applicable as of 1.8.2007, e.i.f. 9.11.2011.

{[3]} Heading and text added by the 2004 EEA Enlargement Agreement (OJ No L 130, 29.4.2004, p. 3 and EEA Supplement No 23, 29.4.2004, p. 1), e.i.f. 1.5.2004.

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

(a) the EFTA States shall notify the EEA Joint Committee of the measures referred to in Article 2 of the Directive. The Community shall notify the EEA Joint Committee of the measures taken by its Member States. Exchanges of information regarding such measures shall take place within the EEA Joint Committee;

(b) for the application of measures as referred to in Article 3 of the Directive, the EFTA States shall follow the procedure as set out in Protocol 18. For cooperation between the Contracting Parties the joint procedures as set out in Article 45 of the Agreement shall apply;

(c) any decisions the Community may take in accordance with Article 6(2) of the Directive, shall not be subject to the procedures of Chapter 2, Part VII of the Agreement. The Community shall inform the other Contracting Parties of such decisions. The restrictions for which an extension of the transition periods is granted may be upheld within the framework of this Agreement on the same terms as in the Community;

(d) the EFTA States may continue to apply domestic legislation regulating foreign ownership and/or ownership by non-residents, existing on the date of entry into force of the EEA Agreement, subject to time limits and within the areas set out below :

- up to 1 January 1995 for Iceland regarding short term capital movement operations set out in Annex II to the Directive;
- up to 1 January 1995 for Norway regarding acquisition of domestic securities and admission of domestic securities to a foreign capital market;
- up to 1 January 1995 for Norway, and up to 1 January 1996 for **{[4]}**Iceland and up to 1 January 1997 for Liechtenstein**{[5]}** regarding direct investment on national territory. The EEA Joint Committee shall review the situation as regards Liechtenstein at the end of the transitional period**{[6]}**;
- [ ]**{[7]}**
- up to 1 January 1995 for Norway, up to 1 January 1996 for [8]Iceland and up to 1 January 1999**{[9]}** for Liechtenstein [ ]**{[10]}** regarding investments in real estate on national territory. The EEA Joint Committee shall review the situation as regards Liechtenstein at the end of the transitional period**{[11]}**;
- [ ] **{[12]}**

(e) during transition periods, EFTA States shall not treat new and existing investments by companies or nationals of EC Member States or other EFTA States less favourably than under the legislation existing at the date of signature of the Agreement, without prejudice to the right of EFTA States to introduce legislation which is in conformity with the Agreement and in particular provisions concerning the purchase of secondary residences which correspond in their effect to legislation that has been upheld within the Community in accordance with Article 6(4) of the Directive;

{[4]} Words “and Sweden” and “Finland” deleted by Decision No 43/2005 (OJ No L 198, 28.7.2005, p. 45 and EEA Supplement No 38, 28.7.2005, p. 26), e.i.f. 12.3.2005.

{[5]} Words "up to 1 January 1997 for" inserted by EEA Council Decision No 1/95.

{[6]} Sentence added by EEA Council Decision No 1/95.

{[7]} Indent deleted by the Adjusting Protocol.

{[8]} Words “Austria, Finland” deleted by Decision No 43/2005 (OJ No L 198, 28.7.2005, p. 45 and EEA Supplement No 38, 28.7.2005, p. 26), e.i.f. 12.3.2005.

{[9]} This date, introduced by EEA Council Decision No 1/95, replaces former date.

{[10]} Words "and Switzerland" deleted by the Adjusting Protocol.

{[11]} Sentence added by EEA Council Decision No 1/95.

{[12]} Indent deleted by Decision No 43/2005 (OJ No L 198, 28.7.2005, p. 45 and EEA Supplement No 38, 28.7.2005, p. 26), e.i.f. 12.3.2005.

(f) the reference in the introductory part of Annex I of the Directive to Article 68(3) of the EEC Treaty shall be deemed to be to Article 42(2) of the Agreement;

(g) notwithstanding Article 40 of the Agreement and the provisions of this Annex, Iceland may continue to apply restrictions existing on the date of signature of the Agreement on foreign ownership and/or ownership by non-residents in the sectors of fisheries and fish processing.

These restrictions shall not prevent investments by non-nationals or nationals who do not have legal domicile in Iceland in companies which are only indirectly engaged in fisheries or fish processing. However, national authorities shall have the right to oblige companies which have, wholly or partly, been acquired by non-nationals or nationals who do not have legal domicile in Iceland to divest themselves of any investments in fish-processing activities or fishing vessels;

(h) notwithstanding Article 40 of the Agreement and the provisions of this Annex, Norway may continue to apply restrictions existing on the date of signature of the Agreement, on ownership by non-nationals of fishing vessels.

These restrictions shall not prevent investments by non-nationals in land-based fish processing or in companies which are only indirectly engaged in fishing operations. National authorities shall have the right to oblige companies which have been wholly or partly acquired by non-nationals to divest themselves of any investments in fishing vessels.

2.**{[13]}** **32011 L 0007**: Directive 2011/7/EU of the European Parliament and of the Council of 16 February 2011 on combating late payment in commercial transactions (OJ L48, 23.2.2011, p. 1).

3.**{[14]}** **32001 R 2560**: Regulation (EC) No 2560/2001 of the European Parliament and of the Council of 19 December 2001 on cross-border payments in euro (OJ L 344, 28.12.2001, p. 13).

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

Credit institutions authorised in Liechtenstein shall be exempted from the obligations provided for in Article 3 of the Regulation until 1 July 2005.

3a.**{[15]}** **32012 R 0260**: Regulation (EU) No 260/2012 of the European Parliament and of the Council of 14 March 2012 establishing technical and business requirements for credit transfers and direct debits in euro and amending Regulation (EC) No 924/2009 (OJ L 94, 30.3.2012, p. 22).

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

Article 2(23) shall read as follows:

"'micro-enterprise' means an enterprise, which, at the time of conclusion of the payment service contract, is any entity engaged in an economic activity, irrespective of its legal form. This includes, in particular, self-employed persons and family businesses engaged in craft or other activities, and partnerships or associations regularly engaged in an economic activity. The category of micro, small and medium-sized enterprises (SMEs) is made up of enterprises which employ fewer than 250 persons and which have an annual turnover not exceeding EUR 50 million, and/or an annual balance sheet total not exceeding EUR 43 million. Within the SME category, a microenterprise is defined as an enterprise

{[13]} Point inserted by Decision No 48/2003 (OJ No L 193, 31.7.2003, p. 20 and EEA Supplement No 37, p. 14)), e.i.f. 1.2.2004. Text of point 2 (Directive 2000/35/EC) shall be replaced with effect from 16.3.2013 by Decision No 55/2012 (OJ No L 207, 2.8.2012, p. 35 and EEA Supplement No 43, 2.8.2012, p. 43), e.i.f. 1.5.2013.

{[14]} Point 3 (Regulation (EC) No 2560/2001) inserted by Decision No 154/2003 (OJ No L 41, 12.02.2004, p. 47 and EEA Supplement No 7, 12.02.2004, p. 34) , e.i.f. 1.8.2004 and subsequently replaced by Decision No 86/2013 (OJ No L [to be published] and EEA Supplement No [to be published]), e.i.f. pending.

{[15]} Point and text inserted by Decision No 86/2013 (OJ No L [to be published] and EEA Supplement No [to be published]), e.i.f. pending.

which employs fewer than 10 persons and whose annual turnover and/or annual balance sheet total does not exceed EUR 2 million."'

4.{[16]} **32002 L 0047**: Directive 2002/47/EC of the European Parliament and of the Council of 6 June 2002 on financial collateral arrangements (OJ L 168, 27.6.2002, p. 43), as amended by:

-{[17]} **32009 L 0044**: Directive 2009/44/EC of the European Parliament and of the Council of 6 May 2009 (OJ L 146, 10.6.2009, p. 37).

The provisions of the Directive shall, for the purposes of this Agreement, be read with the following adaptation:

In Article 1(4)(c), the words "as defined in Article 1 and Article 2(2) and (3) of the Annex to Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises" shall not apply.

{[16]} Point inserted by Decision No 106/2004 (OJ No L 376, 23.12.2004, p. 37 and EEA Supplement No 65, 23.12.2004, p. 26), e.i.f. 1.9.2005.

{[17]} Indent, adaptation text and words ", as amended by:" added by Decision No 50/2010 (OJ No L 181, 15.7.2010, p. 18 and EEA Supplement No 37, 15.7.2010, p. 23), e.i.f. 1.2.2012.