

ANNEX XIV

COMPETITION

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INTRODUCTION

When the acts referred to in this Annex contain notions or refer 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.

SECTORAL ADAPTATIONS

Unless otherwise provided for, the provisions of this Annex shall, for the purposes of the present Agreement, be read with the following adaptations:

- I. the term "Commission" shall read "competent surveillance authority";
- II. the term "common market" shall read "the territory covered by the EEA Agreement";
- III. the term "trade between Member States" shall read "trade between Contracting Parties";
- IV. the term "the Commission and the authorities of the Member States" shall read "the EC Commission, the EFTA Surveillance Authority, the authorities of the EC Member States and of the EFTA States";

- V. References to Articles of the Treaty establishing the European Economic Community (EEC) or the Treaty establishing the European Coal and Steel Community (ECSC) shall be read as references to the EEA Agreement (EEA) as follows:
 Article 85 (EEC) - Article 53 (EEA),
 Article 86 (EEC) - Article 54 (EEA),
 Article 90 (EEC) - Article 59 (EEA),
 Article 66 (ECSC) - Article 2 of Protocol 25 to the EEA Agreement,
 Article 80 (ECSC) - Article 3 of Protocol 25 to the EEA Agreement.
- VI. the term "this Regulation" shall read "this Act";
- VII. the term "the competition rules of the Treaty" shall read "the competition rules of the EEA Agreement";
- VIII. the term "High Authority" shall read "competent surveillance authority".

Without prejudice to the rules on control of concentrations, the term "competent surveillance authority" as referred to in the rules below shall read "the surveillance authority which is competent to decide on a case in accordance with Article 56 of the EEA Agreement".

ACTS REFERRED TO

A. MERGER CONTROL

- 1.^{1}**32004 R 0139**: Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings (the EC Merger Regulation) (OJ L 24, 29.1.2004, p. 1).

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

- (a)^{2} In Article 1 (1), the phrase "or the corresponding provisions in Protocol 21 and Protocol 24 to the EEA Agreement" shall be inserted after the words "Without prejudice to Article 4(5) and Article 22";
- furthermore, the term "Community dimension" shall read "Community or EFTA dimension";
- (b) In Article 1(2), the term "Community dimension" shall read "Community or EFTA dimension respectively";
- furthermore, the term "Community-wide turnover" shall read "Community-wide turnover or EFTA wide turnover";
- in the last subparagraph, the term "Member State" shall read "EC Member State or EFTA State";
- (c) In Article 1(3), the "Community dimension" shall read "Community or EFTA dimension respectively";
- furthermore, the term "Community-wide turnover" shall read "Community-wide turnover or EFTA-wide turnover";

^{1} Text of point 1 (Council Regulation (EEC) No 4064/89) replaced by Decision No 78/2004 (OJ L 219, 19.6.2004, p. 13 and EEA Supplement No 32, 19.6.2004, p. 1), e.i.f. 9.6.2004.

^{2} Text of adaptation (a) replaced by Decision No 79/2004 (OJ L 219, 19.6.2004, p. 24 and EEA Supplement No 32, 19.6.2004, p. 10), e.i.f. 1.7.2005.

in Article 1(3)(b) and (c), the term “Member States” shall read “EC Member States or in each of at least three EFTA States;

in the last subparagraph, the term “Member State” shall read “EC Member State or EFTA State”;

- (d) Article 1(4) and (5) shall not apply;
- (e) In Article 2(1), first subparagraph, the term “common market” shall read “functioning of the EEA Agreement”;
- (f) In Article 2(2), at the end, the term “common market” shall read “functioning of the EEA Agreement”;
- (g) In Article 2(3), at the end, the term “common market” shall read “functioning of the EEA Agreement”;
- (h) In Article 2(4), at the end, the term “common market” shall read “functioning of the EEA Agreement”;
- (i) In Article 3(5)(b), the term “Member State” shall read “EC Member State or EFTA State”;
- (j) In Article 4 (1), first subparagraph, the term “Community dimension” shall read “Community or EFTA dimension”;

furthermore, in the first sentence, the phrase “in accordance with Article 57 of the EEA Agreement” shall be inserted after the words “shall be notified to the Commission”;

in Article 4(1), second subparagraph, the term “Community dimension” shall read “Community or EFTA dimension”;

- (k) In Article 5(1), the last subparagraph shall read:

“Turnover, in the Community or in an EC Member State, shall comprise products sold and services provided to undertakings or consumers, in the Community or in that EC Member State as the case may be. The same shall apply as regards turnover in the territory of the EFTA States as a whole or in an EFTA State.”;
- (l) In Article 5(3)(a), the last subparagraph shall read:

“The turnover of a credit or financial institution in the Community or in an EC Member State shall comprise the income items, as defined above, which are received by the branch or division of that institution established in the Community or the EC Member State in question as the case may be. The same shall apply as regards turnover of a credit or financial institution in the territory of the EFTA States as a whole or in an EFTA State.”;
- (m) In Article 5(3)(b), the last phrase “, ... gross premiums received from Community residents and from residents of one Member State respectively shall be taken into account.” shall read:

“, ... gross premiums received from Community residents and from residents of one EC Member State respectively shall be taken into account. The same shall apply as regards gross premiums received from residents in the territory of the EFTA States as a whole and from residents in one EFTA State, respectively.”

B. VERTICAL AGREEMENTS AND CONCERTED PRACTICES^{3}

^{3} Title of Chapter B replaced by Decision No 18/2000 (OJ L 103, 12.4.2001, p. 36 and EEA Supplement No 20, 12.4.2001p. 179) e.i.f. 29.1.2000.

- 2.{⁴} **32010 R 0330**: Commission Regulation (EU) No 330/2010 of 20 April 2010 on the application of Article 101(3) of the Treaty on the Functioning of the European Union to categories of vertical agreements and concerted practices (OJ L 102, 23.4.2010, p. 1).

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

The following shall be added at the end of Article 6:

“Pursuant to the provisions of the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice, the EFTA Surveillance Authority may by recommendation declare that, where parallel networks of similar vertical restraints cover more than 50% of a relevant market in the EFTA States, this Regulation shall not apply to vertical agreements containing specific restraints relating to that market.

A recommendation pursuant to paragraph 1 shall be addressed to the EFTA State or EFTA States comprising the relevant market in question. The Commission shall be informed of the issuance of such a recommendation.

Within three months from the issuance of a recommendation pursuant to paragraph 1, all EFTA States addressees shall notify the EFTA Surveillance Authority whether they accept the recommendation. If the three months deadline expires without a response, this shall be understood as an acceptance of the EFTA State not responding timely.

If an EFTA State addressee of the recommendation either accepts the recommendation or does not respond in time, a legal obligation under the Agreement to implement the recommendation within three months from its issuance shall be bestowed upon it.

If within the three months deadline, an EFTA State addressee notifies the EFTA Surveillance Authority that it does not accept its recommendation, the EFTA Surveillance Authority shall notify the Commission of this response. Should the Commission disagree with the position of the EFTA State in question, Article 92(2) of the Agreement shall apply.

The EFTA Surveillance Authority and the Commission shall exchange information and consult each other in the application of this provision.

Where parallel networks of similar vertical restraints cover more than 50% of a relevant market within the territory of the EEA Agreement, the two surveillance authorities can initiate cooperation with the aim of adopting separate measures. If the two surveillance authorities agree on a relevant market and the appropriateness of adopting a measure pursuant to this provision, the Commission shall adopt a regulation addressed to the EU Member States and the EFTA Surveillance Authority a recommendation of corresponding substance to the EFTA State or EFTA States comprising the relevant market in question.

3. [] {⁵}

4. [] {⁶}

4a. [] {⁷}

- 4b.{⁸} **32010 R 0461**: Commission Regulation (EU) No 461/2010 of 27 May 2010 on the application of Article 101(3) of the Treaty on the Functioning of the European Union to categories of vertical agreements and concerted practices in the motor vehicle sector (OJ L 129, 28.5.2010, p. 52).

^{4} Text of point 2 replaced by Decision No 18/2000 (OJ L 103, 12.4.2001, p. 36 and EEA Supplement No 20, 12.4.2001 p. 179), e.i.f. 29.1.2000 and subsequently text of point 2 (Commission Regulation (EC) No 2790/1999) replaced by Decision No 77/2010 (OJ L 244, 16.9.2010, p. 35 and EEA Supplement No 49, 16.9.2010, p. 34), e.i.f. 12.6.2010

^{5} Text of point 3 deleted by Decision No 18/2000 (OJ L 103, 12.4.2001, p. 36 and EEA Supplement No 20, 12.4.2001 p. 179), e.i.f. 29.1.2000.

^{6} Point deleted by Decision 130/2004 (OJ L 64, 10.3.2005, p. 57 and EEA Supplement No 12, 10.3.2005, p. 42), e.i.f. 19.5.2005

^{7} Point deleted by Decision 130/2004 (OJ L 64, 10.3.2005, p. 57 and EEA Supplement No 12, 10.3.2005, p. 42), e.i.f. 19.5.2005.

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

The following shall be added at the end of Article 6:

“Pursuant to the provisions of the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice, the EFTA Surveillance Authority may by recommendation declare that, where parallel networks of similar vertical restraints cover more than 50% of a relevant market in the EFTA States, this Regulation shall not apply to vertical agreements containing specific restraints relating to that market.

A recommendation pursuant to paragraph 1 shall be addressed to the EFTA State or EFTA States comprising the relevant market in question. The Commission shall be informed of the issuance of such a recommendation.

Within three months from the issuance of a recommendation pursuant to paragraph 1, all EFTA States addressees shall notify the EFTA Surveillance Authority whether they accept the recommendation. If the three months deadline expires without a response, this shall be understood as an acceptance of the EFTA State not responding timely.

If an EFTA State addressee of the recommendation either accepts the recommendation or does not respond in time, a legal obligation under the Agreement to implement the recommendation within three months from its issuance shall be bestowed upon it.

If within the three months deadline, an EFTA State addressee notifies the EFTA Surveillance Authority that it does not accept its recommendation, the EFTA Surveillance Authority shall notify the Commission of this response. Should the Commission disagree with the position of the EFTA State in question, Article 92(2) of the Agreement shall apply.

The EFTA Surveillance Authority and the Commission shall exchange information and consult each other in the application of this provision.

Where parallel networks of similar vertical restraints cover more than 50% of a relevant market within the territory of the EEA Agreement, the two surveillance authorities can initiate cooperation with the aim of adopting separate measures. If the two surveillance authorities agree on a relevant market and the appropriateness of adopting a measure pursuant to this provision, the Commission shall adopt a regulation addressed to the EU Member States and the EFTA Surveillance Authority a recommendation of corresponding substance to the EFTA State or EFTA States comprising of the relevant market in question.

C. TECHNOLOGY TRANSFER AGREEMENTS^{9}

- 5.^{10} **32014 R 0316:** Commission Regulation (EU) No 316/2014 of 21 March 2014 on the application of Article 101(3) of the Treaty on the Functioning of the European Union to categories of technology transfer agreements (OJ L 93, 28.3.2014, p. 17).

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

- (a) In Article 6(1) the following words shall be inserted “or the corresponding provision in Article 29(1) of Chapter II of Part I of Protocol 4 to the Agreement between the EFTA States on the

^{8} Point inserted by Decision 136/2002 (OJ L 336, 12.12.2002, p. 38 and EEA Supplement No 61, 12.12.2002, p. 31), e.i.f. 28.9.2002 and subsequently replaced by Decision No 91/2010 (OJ L 277, 21.10.2010, p. 44 and EEA Supplement No 59, 21.10.2010, p. 13), e.i.f. 3.7.2010. It shall apply from 1 June 2010.

^{9} Title “Patent licensing agreement” replaced by “Technology transfer agreements” by Decision No 12/97 (OJ L 182, 10.7.1997, p. 42 and EEA Supplement No 29, 10.7.1997, p. 46), e.i.f. 1.4.1997.

^{10} Text of point 5 (Commission Regulation (EC) No 240/96) replaced by Decision No 42/2005 (OJ L 198, 28.7.2005, p. 42 and EEA Supplement No 38, 28.7.2005, p. 24), e.i.f. 19.5.2005. Text of point 5 (Commission Regulation (EC) No 772/2004) replaced by Decision No 293/2014 (OJ L 311, 26.11.2015, p. 47 and EEA Supplement No 71, 26.11.2015, p. 46), e.i.f. 13.12.2014 and subsequently corrected before publication by Corrigendum of 20.3.2015.

Establishment of a Surveillance Authority and a Court of Justice.” after the words “pursuant to Article 29(1) of Regulation (EC) No 1/2003”.

- (b) In Article 6(2) the following words shall be inserted “or the corresponding provision in Article 29(2) of Chapter II of Part I of Protocol 4 to the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice.” after the words “pursuant to Article 29(2) of Regulation (EC) No 1/2003”.
- (c) The following shall be added at the end of Article 7:

“Pursuant to the provisions of the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice, the EFTA Surveillance Authority may by recommendation declare that, where parallel networks of similar technology transfer agreements cover more than 50% of a relevant market in the EFTA States, this Regulation shall not apply to technology transfer agreements containing specific restraints relating to that market.

A recommendation pursuant to paragraph 1 shall be addressed to the EFTA State or EFTA States comprising the relevant market in question. The Commission shall be informed of the issuance of such a recommendation.

Within three months from the issuance of a recommendation pursuant to paragraph 1, all EFTA States addressees shall notify the EFTA Surveillance Authority whether they accept the recommendation. If the three months deadline expires without a response, this shall be understood as an acceptance by the EFTA State not responding in time.

If an EFTA State addressee of the recommendation either accepts the recommendation or does not respond in time, a legal obligation under the Agreement to implement the recommendation within three months from its issuance shall be bestowed upon it.

If within the three months deadline, an EFTA State addressee notifies the EFTA Surveillance Authority that it does not accept its recommendation, the EFTA Surveillance Authority shall notify the Commission of this response. Should the Commission disagree with the position of the EFTA State in question, Article 92(2) of the Agreement shall apply.

The EFTA Surveillance Authority and the Commission shall exchange information and consult each other on the application of this provision.

Where parallel networks of similar technology transfer agreements cover more than 50% of a relevant market within the territory of the EEA Agreement, the two surveillance authorities can initiate cooperation with the aim of adopting separate measures. If the two surveillance authorities agree on a relevant market and the appropriateness of adopting a measure pursuant to this provision, the Commission shall adopt a regulation addressed to the EC Member States and the EFTA Surveillance Authority a recommendation of corresponding substance to the EFTA State or EFTA States comprising the relevant market in question.”

D. SPECIALIZATION AND RESEARCH AND DEVELOPMENT AGREEMENTS

6.^{11} **32010 R 1218**: Commission Regulation (EU) No 1218/2010 of 14 December 2010 on the application of Article 101(3) of the Treaty on the Functioning of the European Union to certain categories of specialisation agreements (OJ L 335, 18.12.2010, p. 43).

7.^{12} **32010 R 1217**: Commission Regulation (EU) No 1217/2010 of 14 December 2010 on the application of Article 101(3) of the Treaty on the Functioning of the European Union to certain categories of research and development agreements (OJ L 335, 18.12.2010, p. 36).

^{11} Text of point 6 replaced by Decision No 113/2000 (OJ L 52, 22.2.2001, p. 38 and EEA Supplement No 9, 22.2.2001, p. 5), e.i.f. 1.1.2001. Text of point 6 (Commission Regulation (EC) No 2658/2000) replaced by Decision No 3/2011 (OJ L 93, 7.4.2011, p. 32 and EEA Supplement No 19, 7.4.2011, p. 7), e.i.f. 12.2.2011.

E. []^{13}8. []^{14}**F. []^{15}**9. []^{16}**G. TRANSPORT**

10.^{17} **32009 R 0169**: Council Regulation (EC) No 169/2009 of 26 February 2009 applying rules of competition to transport by rail, road and inland waterway (Codified version) (OJ L 61, 5.3.2009, p. 1).

11. []^{18}11a. []^{19}11b. []^{20}

11c.^{21} **32009 R 0906**: Commission Regulation (EC) No 906/2009 of 28 September 2009 on the application of Article 81(3) of the Treaty to certain categories of agreements, decisions and concerted practices between liner shipping companies (consortia) (OJ L 256, 29.9.2009, p. 31), as amended by:

-^{22} **32014 R 0697**: Commission Regulation (EU) No 697/2014 of 24 June 2014 (OJ L 184, 25.6.2014, p. 3).

^{12} Text of point 7 replaced by Decision No 113/2000 (OJ L 52, 22.2.2001, p. 38 and EEA Supplement No 9, 22.2.2001, p. 5), e.i.f. 1.1.2001. Text of point 7 (Commission Regulation (EC) No 2659/2000) replaced by Decision No 3/2011 (OJ L 93, 7.4.2011, p. 32 and EEA Supplement No 19, 7.4.2011, p. 7), e.i.f. 12.2.2011.

^{13} Title “Franchising agreements” deleted by Decision No 18/2000 (OJ L 103, 12.4.2001, p. 36 and EEA Supplement No 20, 12.4.2001, p. 179), e.i.f. 29.1.2000.

^{14} Text of point 8 deleted by Decision No 18/2000 (OJ L 103, 12.4.2001, p. 36 and EEA Supplement No 20, 12.4.2001p. 179), e.i.f. 29.1.2000.

^{15} Title “Know-how licensing agreements” deleted by Decision No 12/97 (OJ L 182, 10.7.1997, p. 42 and EEA Supplement No 29, 10.7.1997, p. 46), e.i.f. 1.4.1997.

^{16} Text of point 9 (Commission Regulation (EEC) No 556/89) deleted by Decision No 12/97 (OJ L 182, 10.7.1997, p. 42 and EEA Supplement No 29, 10.7.1997, p. 46), e.i.f. 1.4.1997.

^{17} Text of point 10 (Council Regulation (EEC) 1017/68) replaced by Decision No 130/2004 (OJ L 64, 10.3.2005, p. 57 and EEA Supplement No 12, 10.3.2005, p. 42), e.i.f. 19.5.2005 and subsequently replaced by Decision No 130/2010 (OJ L 85, 31.3.2011, p. 14 and EEA Supplement No 17, 31.3.2011, p. 4), e.i.f. 11.12.2010.

^{18} Text of point 11 (Commission Regulation (EEC) No 4056/86) deleted by Decision No 130/2010 (OJ L 85, 31.3.2011, p. 14 and EEA Supplement No 17, 31.3.2011, p. 4), e.i.f. 11.12.2010.

^{19} Text of point 11a (Commission Regulation (EEC) No 3652/93) deleted by Decision No 130/2004 (OJ L 64, 10.3.2005, p. 57 and EEA Supplement No 12, 10.3.2005, p. 42), e.i.f. 19.5.2005.

^{20} Text of point 11b (Commission Regulation (EEC) No 1617/93) deleted by Decision No 156/2006 (OJ L 89, 29.3.2007, p. 31 and EEA Supplement No 15, 29.3.2007, p. 25), e.i.f. 9.12.2006.

^{21} Point inserted by Decision No 12/96 (OJ L 124, 23.5.1996, p. 13 and EEA Supplement No 22, 23.5.1996, p. 54), e.i.f. 1.4.1996. Text replaced by Decision No 49/2000 (OJ L 237, 21.9.2000, p. 60 and EEA Supplement No 42, 21.9.2000, p. 3), e.i.f. 1.6.2000. Text of point 11c replaced by Decision No 51/2010 (OJ L 181, 15.7.2010, p. 19 and EEA Supplement No 37, 15.7.2010, p. 25), e.i.f. 1.5.2010. It shall apply from 26 April 2010.

^{22} Indent and words “, as amended by:” added by Decision No 238/2014 (OJ L 230, 3.9.2015, p. 45 and EEA Supplement No 52, 3.9.2015, p. 44), e.i.f. 1.11.2014.

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

In Article 1 the words “Community ports” shall read “ports in the territory covered by the EEA Agreement”.

11d. []^{23}

11e. []^{24}

H. INFORMATION AND COMMUNICATION TECHNOLOGIES^{25}

12. ^{26} **32008 L 0063**: Commission Directive 2008/63/EC of 20 June 2008 on competition in the markets in telecommunications terminal equipment (Codified version) (OJ L 162, 21.6.2008, p. 20).

13.^{27}

13a.^{28} **32002 L 0077**: Commission Directive 2002/77/EC of 16 September 2002 on competition in the markets for electronic communications networks and services (OJ L 249, 17.9.2002, p. 21).

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

In Article 7(2), the words “competition rules of the EC Treaty” shall read “the competition rules of the EEA Agreement”.

I. COAL AND STEEL

14. **354 D 7024**: High Authority Decision No 24/54 of 6 May 1954 laying down in implementation of Article 66 (1) of the Treaty a regulation on what constitutes control of an undertaking (OJ of the ECSC No 9, 11.5.1954, p. 345/54).

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

Article 4 shall not apply.

^{23} Point 11d (Council Regulation (EC) 1419/2006) inserted by Decision No 153/2006 (OJ L 89, 29.3.2007, p. 25 and EEA Supplement No 15, 29.3.2007, p. 20), e.i.f. 1.8.2007 and subsequently deleted by Decision No 130/2010 (OJ L 85, 31.3.2011, p. 14 and EEA Supplement No 17, 31.3.2011, p. 4), e.i.f. 11.12.2010.

^{24} Point 11e (Commission Regulation 1459/2006) inserted by Decision No 156/2006 (OJ L 89, 29.3.2007, p. 31 and EEA Supplement No 15, 29.3.2007, p. 25), e.i.f. 9.12.2006 and subsequently deleted by Decision No 130/2010 (OJ L 85, 31.3.2011, p. 14 and EEA Supplement No 17, 31.3.2011, p. 4), e.i.f. 11.12.2010.

^{25} The text in heading H replaced by Decision No 130/2010 (OJ L 85, 31.3.2011, p. 14 and EEA Supplement No17, 31.3.2011, p. 4), e.i.f. 11.12.2010.

^{26} Text of point 12 (Commission Directive 88/301/EEC) replaced by Decision No 130/2010 (OJ L 85, 31.3.2011, p. 14 and EEA Supplement No 17, 31.3.2011, p. 4), e.i.f. 11.12.2010.

^{27} Point deleted with effect from 25 July 2003 by Decision No 153/2003 (OJ L 41, 12.02.2004, p. 45 and EEA Supplement No 7, 12.02.2004, p. 32), e.i.f. 1.11.2004.

^{28} Point inserted by Decision No 153/2003 (OJ L 41, 12.02.2004, p. 45 and EEA Supplement No 7, 12.02.2004, p. 32), e.i.f. 1.11.2004.

15. **367 D 7025**: High Authority Decision No 25/67 of 22 June 1967 laying down in implementation of Article 66 (3) of the Treaty a regulation concerning exemption from prior authorization (OJ No 154, 14.7.1967, p. 11), as amended by:

- **378 S 2495**: Commission Decision No 2495/78/ECSC of 20 October 1978 (OJ No L 300, 27.10.1978, p. 21),

-{²⁹} **391 S 3654**: Commission Decision No 3654/91/ECSC of 13 December 1991 (OJ No L 348, 17.12.1991, p. 12).

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

- (a) in Article 1 (2), the phrase "and within the EFTA States" shall be inserted after "... within the Community";
- (b) in the heading of Article 2, the phrase "the scope of the Treaty" shall read "the scope of Protocol 25 to the EEA Agreement";
- (c) in the heading of Article 3, the phrase "the scope of the Treaty" shall read "the scope of Protocol 25 to the EEA Agreement";
- (d) Article 11 shall not apply.

{²⁹} Indent added by Decision No 7/94 (OJ L 160, 28.6.1994, p. 1 and EEA Supplement No 17, 28.6.1994, p. 1), e.i.f. 1.7.1994.

J. INSURANCE SECTOR^{30}

15a. []^{31}

15b.^{32} **32010 R 0267**: Commission Regulation (EU) No 267/2010 of 24 March 2010 on the application of Article 101(3) of the Treaty on the Functioning of the European Union to certain categories of agreements, decisions and concerted practices in the insurance sector (OJ L 83, 30.3.2010, p. 1).

ACTS OF WHICH THE EC COMMISSION AND THE EFTA SURVEILLANCE AUTHORITY SHALL TAKE DUE ACCOUNT

In the application of Articles 53 to 60 of the Agreement and the provisions referred to in this Annex, the EC Commission and the EFTA Surveillance Authority shall take due account of the principles and rules contained in the following acts:

Control of concentrations

16. **C/203/90/p. 5**: Commission Notice regarding restrictions ancillary to concentrations (OJ No C 203, 14.8.1990, p. 5).

17. **C/203/90/p. 10**: Commission Notice regarding the concentrative and co-operative operations under Council Regulation (EEC) No 4064/89 of 21 December 1989 on the control of concentrations between undertakings (OJ No C 203, 14.8.1990, p. 10).

Exclusive dealing agreements

18. **C/101/84/p. 2**: Commission Notice concerning Commission Regulations (EEC) No 1983/83 and (EEC) No 1984/83 of 22 June 1983 on the application of Article 85 (3) of the Treaty to categories of exclusive distribution and exclusive purchasing agreements (OJ No C 101, 13.4.1984, p. 2).

19. **C/17/85/p. 4**: Commission Notice concerning Regulation (EEC) No 123/85 of 12 December 1984 on the application of Article 85 (3) of the Treaty to certain categories of motor vehicle distribution and servicing agreements (OJ No C 17, 18.1.1985, p. 4).

Other

20. **362 X 1224(01)**: Commission Notice on exclusive dealing contracts with commercial agents (OJ No 139, 24.12.1962, p. 2921/62).

^{30} Chapter and point 15a inserted by Decision No 7/94 (OJ L 160, 28.6.1994, p. 1 and EEA Supplement No 17, 28.6.1994, p. 1), e.i.f. 1.7.1994.

^{31} Text of point 15a (Commission Regulation (EEC) No 3932/92) deleted by Decision 130/2004 (OJ L 64, 10.3.2005, p. 57 and EEA Supplement No 12, 10.3.2005, p. 42), e.i.f. 19.5.2005.

^{32} Point inserted by Decision No 82/2003 (OJ L257, 9.10.2003, p. 37 and EEA Supplement No 51, 9.10.2003, p. 24), e.i.f. 21.6.2003. Text of point 15b (Commission Regulation (EC) No 358/2003) replaced by Decision 52/2010 (OJ L 181, 15.7.2010, p. 20 and EEA Supplement No 37, 15.7.2010, p. 27), e.i.f. 1.5.2010. It shall apply from 1.4.2010.

21. **C/75/68/p. 3:** Commission Notice concerning agreements, decisions and concerted practices in the field of cooperation between enterprises (OJ No C 75, 29.7.1968, p. 3) as corrected by OJ No C 84, 28.8.1968, p. 14.
22. **C/111/72/p. 13:** Commission Notice concerning imports into the Community of Japanese goods falling within the scope of the Rome Treaty (OJ No C 111, 21.10.1972, p. 13).
23. **C/1/79/p. 2:** Commission Notice of 18 December 1978 concerning its assessment of certain subcontracting agreements in relation to Article 85 (1) of the EEC Treaty (OJ No C 1, 3.1.1979, p. 2).
24. **C/231/86/p. 2:** Commission Notice on agreements of minor importance which do not fall under Article 85 (1) of the Treaty establishing the European Economic Community (OJ No C 231, 12.9.1986, p. 2).
25. **C/233/91/p. 2:** Guidelines on the application of EEC competition rules in the telecommunication sector (OJ No C 233, 6.9.1991, p. 2).

General {³³}

- I. The above acts were adopted by the EC Commission up to 31 July 1991. Upon entry into force of the Agreement, corresponding acts are to be adopted by the EFTA Surveillance Authority under Articles 5 (2) (b) and 25 of the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice. They are to be published in accordance with the exchange of letters on publication of EEA relevant information.
- II. As regards EEA relevant acts adopted by the EC Commission after 31 July 1991, the EFTA Surveillance Authority, in accordance with the powers vested in it under the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice, is to adopt, after consultations with the EC Commission, corresponding acts in order to maintain equal conditions of competition. The acts adopted by the Commission will not be integrated into this Annex but a reference to their publication in the *Official Journal of the European Communities* will be made in the EEA Supplement to the Official Journal. The corresponding acts adopted by the EFTA Surveillance Authority are to be published in the EEA Supplement to, and the EEA Section of, the Official Journal. Both surveillance authorities shall take due account of these acts in cases where they are competent under the Agreement.

{³³} Section added by Decision No 7/94 (OJ L 160, 28.6.1994, p. 1 and EEA Supplement No 17, 28.6.1994, p. 1), e.i.f. 1.7.1994.