

# EUROPEAN ECONOMIC AREA

## STANDING COMMITTEE OF THE EFTA STATES

Ref. 1128516

Distribution: EEA EFTA

8 May 2014  
1 Annex

**Decision of the Standing Committee of the EFTA States  
No 1/2014/SC  
of 8 May 2014  
on procedures for the incorporation of EU acts into the EEA Agreement and repealing  
Decision No 1/2012/SC of 30 April 2012**

THE STANDING COMMITTEE OF THE EFTA STATES,

Having regard to the procedures for the incorporation of EC acts into the EEA Agreement adopted in 1996,

Having regard to the subsequent updates of these procedures in 2006 and 2012,

Following the assessment of the procedures adopted in 2012,

Considering the need to further increase the efficiency of the EEA Agreement,

Whereas it has become necessary to establish new procedures and further streamline the existing procedures,

HAS DECIDED AS FOLLOWS:

### **Article 1**

The procedures for the incorporation of EU acts into the EEA Agreement are adopted, as described in the Annex to this Decision.

### **Article 2**

Decision of the Standing Committee of the EFTA States No 1/2012/SC of 30 April 2012 is hereby repealed.

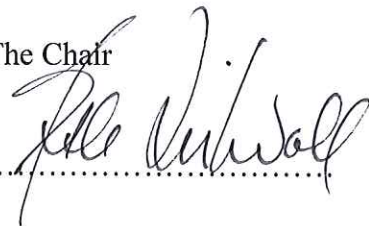
**Article 3**

This Decision enters into force on 15 September 2014.

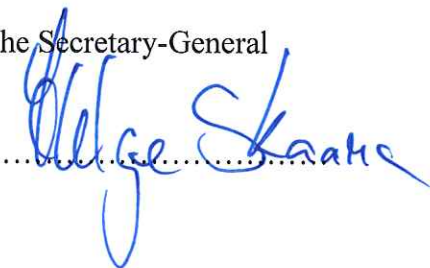
Done at Brussels, 8 May 2014.

For the Standing Committee

The Chair

  
.....

The Secretary-General

PP.   
.....

\_\_\_\_\_

**ANNEX**

**to Decision of the Standing Committee of the EFTA States No 1/2014/SC**

**Procedures for the incorporation of EU acts  
into the EEA Agreement**

In 1996, the Standing Committee adopted procedures for the incorporation of EC acts into the EEA Agreement. These procedures were updated in 2006 and 2012. In order to increase the efficiency of the EEA Agreement, new procedures are established and existing procedures are streamlined.

PROCEDURES TO BE FOLLOWED:

**1. ACTS UNDER PREPARATION ON THE EU SIDE**

**1.1. Commission proposals for acts to be adopted by the European Parliament and the Council or by the Council (pipeline)**

When new EU legislation to be adopted by the European Parliament and the Council or by the Council is under preparation, working groups/expert groups under the Standing Committee structure (WGs/EGs) and the Secretariat cooperate as follows:

**1.1.1. Identification of EEA-relevant Commission proposals**

Within one week of the publication of the proposals, the Secretariat:

- a) Identifies European Commission proposals falling under the scope of the EEA Agreement;
- b) Provides a summary of the proposed legislation;
- c) Sends a link to the Commission proposals to the relevant WG/EG;
- d) At the request of an EEA EFTA State, sends the proposals to its national parliament.

Where appropriate, the Secretariat updates the WG/EG on the development of the proposal until the act is adopted by the relevant EU institution(s).

**1.1.2. Identification of EEA horizontal challenges****A) Secretariat's responsibilities**

The Secretariat:

- a) Carries out a preliminary analysis of the Commission proposal with a view to indicating to the relevant WG/EG possible EEA horizontal challenges. The EEA horizontal challenges analysed are the following:
  - EEA relevance;
  - Adaptations/explanatory note/declaration to acts amended or repealed by the proposal;
  - Provisions containing references to acts not incorporated into the EEA Agreement;
  - Provisions raising possible two-pillar issues not covered by Protocol 1 to the EEA Agreement;
  - Provisions related to a third country/third countries;
  - Provisions foreseeing fines imposed by an EU institution;
  - Provisions foreseeing criminal law sanctions;
  - Other horizontal issues.
- b) Sends the WG/EG the results of its preliminary assessment of possible EEA horizontal challenges within one week of the publication of the proposal.

**B) WGs/EGs' responsibilities**

The WGs/EGs:

- a) Assess the Commission proposals;
- b) Identify and assess possible EEA horizontal challenges. In addition to the EEA horizontal challenges described above ([1.1.2., A](#)), the WGs/EGs also have to assess the need for bilateral agreements or other arrangements.
- c) Provide the Secretariat with their feedback on possible EEA horizontal challenges within six weeks of the proposal being sent to the WGs/EGs by the Secretariat.

**C) Subcommittees' responsibilities**

Subcommittees I-IV:

- a) Discuss the EEA horizontal challenges in Commission proposals identified by the Secretariat; and/or

- b) Discuss the EEA horizontal challenges in Commission proposals identified within the WGs/EGs.

### **1.1.3. EEA EFTA Comments**

WGs/EGs decide whether to draft EEA EFTA Comments to a Commission proposal for an act to be adopted by the European Parliament and the Council or the Council.

They also decide whether to draft EEA EFTA Comments to any EU initiatives at an earlier stage, such as EU strategies, EU green or white papers, and reports from Committees of the European Parliament.

Before EEA EFTA Comments are sent to the relevant actors on the EU side, they are sent for approval by written procedure to the relevant subcommittee. They are also sent to the Standing Committee for information purposes.

When EEA EFTA Comments have been sent to the relevant actors on the EU side, they are taken note of by the relevant joint subcommittee and the EEA Joint Committee.

## **1.2. Draft Commission acts**

Draft Commission implementing acts are agreed upon in Commission committees and draft Commission delegated acts are discussed within Commission expert groups.

In order to receive information on draft Commission acts, EEA EFTA experts should register on the relevant Commission mailing list.

The EEA EFTA States decide on attendance by their experts at Commission committees or expert group meetings.

When considered useful for swift incorporation, EEA EFTA experts attending such Commission meetings inform experts of other EEA EFTA States and the Secretariat about EEA-relevant acts under preparation by the Commission and discussions in the meetings.

## **2. INITIATION OF THE FORMAL EEA INCORPORATION PROCESS**

### **2.1. Identification of EU legislation to be considered for incorporation**

The Secretariat, on a daily basis:

- a) Identifies the Commission acts that are made publicly available in an EU register;
- b) Monitors the Official Journal of the European Union (OJ) and identifies:
  - i) acts from the European Parliament and the Council or from the Council,
  - ii) acts from the Commission that have been previously published in an EU register, and
  - iii) acts from the Commission that have not been previously published in the registers;
- c) Compares the version of the acts published in an EU register with the version published in the OJ in order to identify possible amendments;
- d) Initiates the relevant EEA EFTA procedure.

### **2.2. Procedures for assessment of EU legislation**

There are three EEA EFTA procedures: the fast-track procedure, the standard procedure and the simplified procedure. When a procedure is initiated, the Secretariat specifies which procedure is being applied.

#### **2.2.1. Fast-track procedure**

##### **A) Acts falling under the fast-track procedure**

This procedure applies to certain categories of EU acts which by their nature do not raise any EEA horizontal challenges (see [1.1.2., A](#)), do not need any adaptations and do not call for any constitutional requirements.



Subcommittees I-IV, after consultation with the WGs/EGs, decide on the list of categories of acts subject to this procedure. This list can be amended by the subcommittees whenever needed.

When the Secretariat considers that an act which is not on the list mentioned above is nevertheless suitable for the fast-track procedure, this procedure is initiated.

## **B) Secretariat's responsibilities**

- a) Within one week of the publication of the act in an EU register or the OJ, the Secretariat:
  - i) Verifies that the act does not raise any EEA horizontal challenges;
  - ii) Sends the relevant WG/EG a link to the act and a fast-track sheet containing the information necessary to identify the act, as well as the suggested placement of the act in the EEA Agreement.
- b) For acts that have been previously published in an EU register, the Secretariat sends the WG/EG, upon publication of the act in the OJ:
  - i) The link to the act published in the OJ;
  - ii) Further information related to the act, such as its full title, its Celex number, its date of adoption, its OJ reference, whether it is marked as EEA relevant by the European Union and its EU compliance date;
  - iii) Where necessary, a document highlighting the differences between the version published in an EU register and the version published in the OJ.

## **C) WGs/EGs' responsibilities**

No reply to the fast-track sheet is expected from the WGs/EGs.

EEA EFTA experts in WGs/EGs:

- a) Start their assessment of the act immediately after receiving the fast-track sheet and have at least six weeks to finalise their assessment;
- b) Can oppose the fast-track procedure if the act entails EEA horizontal challenges or requires adaptations or constitutional requirements. The Secretariat and the experts of the other EEA EFTA States are provided with an explanation as to why the standard procedure should be applied. EEA EFTA experts can oppose the fast-track procedure at any time before a draft Joint Committee Decision (JCD) is sent to the relevant subcommittee.

In the case of opposition to the fast-track procedure, the deadline foreseen in the standard procedure (see [2.2.2.](#)) would start when the fast-track sheet was sent to the relevant WG/EG.

**2.2.2. Standard procedure****A) Acts falling under the standard procedure**

This procedure applies to all EEA-relevant acts that are not eligible for the fast-track procedure (see [2.2.1.](#)) or simplified procedure (see [2.2.3.](#)).

**B) Secretariat's responsibilities**

- a) Within one week of the publication of the act, the Secretariat:
  - i) Identifies possible EEA horizontal challenges (see [1.1.2., A](#));
  - ii) Sends the relevant WG/EG a link to the act, a standard sheet containing the information necessary to identify the act as well as the suggested placement of the act in the EEA Agreement, and its assessment of EEA horizontal challenges;
  - iii) Sets the 16-week deadline for replies from the WGs/EGs;
  - iv) Reminds the WGs/EGs about any standard sheets that are pending, at the latest four weeks before the deadline expires.
- b) For acts that have been previously published in an EU register, the Secretariat sends the WGs/EGs, upon publication of the act in the OJ:
  - i) The link to the act published in the OJ;
  - ii) Further information related to the act, such as its full title, its Celex number, its date of adoption, its OJ reference, whether it is marked as EEA relevant by the EU and its EU compliance date;
  - iii) Where necessary, a document highlighting the differences between the version published in an EU register and the version published in the OJ.
- c) The Secretariat sends reminders to the experts at regular intervals, with a copy to the subcommittee delegates who have requested them.

**C) WGs/EGs' responsibilities**

EEA EFTA experts in WGs/EGs:

- a) Start their assessment of the act immediately after receiving the standard sheet;
- b) Provide answers to all the questions in the standard sheet (see [2.2.2., D](#));



- c) Return the standard sheet to the Secretariat at their earliest convenience but no later than 16 weeks after it has been sent by the Secretariat;
- d) Send a copy of their reply to the experts of the other EEA EFTA States.

#### **D) Information requested in the standard sheet**

The following information is requested from the EEA EFTA experts in the standard sheet:

- a) Indication of possible general EEA horizontal challenges, such as:
  - Adaptations/explanatory note/declaration to acts amended or repealed by the act to incorporate;
  - Provisions containing references to acts not incorporated into the EEA Agreement;
  - Provisions raising possible two-pillar issues not covered by Protocol 1 to the EEA Agreement;
  - Provisions related to a third country/third countries;
  - Provisions foreseeing fines imposed by an EU institution;
  - Provisions foreseeing criminal law sanctions;
  - Need for bilateral agreements or other arrangements;
  - Other horizontal issues.
- b) EEA relevance of the act;
- c) Request for adaptations to the act;
- d) Need for constitutional requirements (as referred to in Article 103 of the EEA Agreement).

#### **2.2.3. Simplified procedure**

Acts subject to the simplified procedure are applicable in the EEA EFTA States without being incorporated into the EEA Agreement by a JCD. According to the simplified procedure, the EEA EFTA States simultaneously take measures corresponding to those taken by the EU. The WG on the Food Chain is the only WG to which the simplified procedure applies.

#### **A) Acts falling under the simplified procedure**

Following agreement between the EU and the EEA EFTA States, the simplified procedure is applied to certain acts in the veterinary field, as described in paragraphs 7 and 8 of the introductory part of Annex I, Chapter I to the EEA Agreement.

The simplified procedure is also used for the processing of certain emergency acts in the food area, as described in adaptation text (i) of points 13 and 41 of Annex I to the EEA Agreement<sup>1</sup>.

## **B) Secretariat's responsibilities**

The Secretariat:

- a) Within one week of the act being published in the OJ, sends the WG on the Food Chain a link to the act with an indication that the act is subject to the simplified procedure;
- b) Four times a year, provides the EEA EFTA States with a list of acts subject to the simplified procedure published in the OJ in the course of the last three months;
- c) Following approval by the WG on the Food Chain, submits the list of acts subject to the simplified procedure to the relevant subcommittee, the Standing Committee and the Joint Committee, to be taken note of four times a year.

## **C) WG on the Food Chain's responsibilities**

EEA EFTA experts in the WG on the Food Chain:

- a) Monitor the adoption of new EU acts and decide whether they are subject to the simplified procedure;
- b) Approve the list of all acts subject to the simplified procedure no later than two weeks after it has been sent by the Secretariat;
- c) Inform the Secretariat if they consider that an act should not be subject to the simplified procedure; in which case the appropriate procedure (see [2.2.1.](#) and [2.2.2.](#)) is initiated by the Secretariat.

# **3. PREPARATION OF A JOINT COMMITTEE DECISION (JCD)**

## **3.1. Drafting of a JCD**

### **3.1.1. General rules when drafting a JCD**

When drafting a JCD, the Secretariat:

---

<sup>1</sup> Regulation (EC) No 178/2002 (Food Law Regulation), OJ L 31, 1.2.2002, p. 1-24.

- a) Assists in checking whether, in the case of amended acts, the basic act(s) have been incorporated with adaptations or declarations, taking this into account in the draft;
- b) Ensures coherency in the adaptations;
- c) Groups acts related to each other in one draft JCD where appropriate and of practical benefit. If it appears later on that one act is delaying the adoption of the draft JCD, the Secretariat and the WG/EG analyse whether it is appropriate to split the draft JCD;
- d) Verifies if the present act to be incorporated depends on the incorporation or entry into force of (an) other act(s). If this is the case, it is reflected in the entry into force provision of the draft JCD.

### **3.1.2. Draft JCD without adaptations**

If a draft JCD has no adaptations, the Secretariat has one week to send the draft to the relevant subcommittee, with the WG/EG in copy:

#### **A) Fast-track procedure:**

- a) For acts that have been previously published in an EU register, the deadline of one week starts once the act has been published in the OJ.
- b) Should the act be published in the OJ shortly after its publication in an EU register, the Secretariat waits a minimum of six weeks after it has sent the fast-track sheet, before submitting a draft JCD to the relevant subcommittee, with the WG/EG in copy.
- c) For acts that have not been previously published in an EU register, the deadline of one week starts six weeks after the publication of the act in the OJ.

#### **B) Standard procedure:**

The Secretariat has one week to submit the draft JCD to the relevant subcommittee, with the WG/EG in copy:

- a) Once the act has been published in the OJ, and
- b) All completed standard sheets have been returned to the Secretariat, and
- c) The EEA EFTA experts have agreed that the act is EEA relevant and requires no adaptations.

**3.1.3. Draft JCD with adaptations**

If a draft JCD requires adaptations, the Secretariat has four weeks to send the draft to the relevant WG/EG:

- a) Once the act has been published in the OJ, and
- b) All completed standard sheets have been returned to the Secretariat, and
- c) The EEA EFTA experts have agreed that the act is EEA relevant and adaptations are needed.

**3.2. Approval of a draft JCD****3.2.1. Approval of a draft JCD by the WG/EG**

If a draft JCD has adaptations, the Secretariat sends it to the relevant WG/EG for approval. Where appropriate, an explanatory note is attached.

EEA EFTA experts in WGs/EGs:

- a) Start their assessment of the draft JCD immediately after receiving it;
- b) Provide feedback no later than two weeks after the draft JCD has been sent by the Secretariat;
- c) Send a copy of their reply to the experts of the other EEA EFTA States.

The Secretariat sends reminders to the experts at regular intervals, with a copy to the subcommittee delegates who have requested them.

If the EEA EFTA experts request amendments to the draft JCD, the Secretariat sends an updated version to the WG/EG indicating the latest changes in the draft.

In the event that no agreement can be reached within the WG/EG, the item is referred to the relevant subcommittee for discussion.

**3.2.2. Approval of a draft JCD by the subcommittee**

The Secretariat sends a draft JCD and, if one exists, the explanatory note for approval, to the relevant subcommittee with the WG/EG in copy.

The subcommittee:

- a) Starts its assessment of the draft JCD immediately after receiving it;
- b) Provides feedback no later than two weeks after the draft JCD has been sent by the Secretariat;
- c) Informs the Secretariat whether amendments are necessary;
- d) Sends a copy of its reply to the subcommittee delegates of the other EEA EFTA States.

Should amendments be requested, the Secretariat revises the draft JCD accordingly and, when appropriate, sends the draft JCD for approval by the subcommittee again.

The Secretariat sends reminders to the subcommittee delegates at regular intervals.

Once a draft JCD has been cleared by the relevant subcommittee, either by written procedure or in a meeting, the Secretariat sends the draft JCD to the European External Action Service (EEAS).

In the event that no agreement can be reached within the subcommittee, the item is referred to the Standing Committee for further discussion. When no agreement can be reached within the joint subcommittee, the item is referred to the Joint Committee.

### **3.3. Adoption of a JCD by the Joint Committee**

Approximately five weeks before the Joint Committee meeting, the Secretariat sends the long list to the EEA EFTA States. The EEA EFTA States have one week at the latest to submit their preliminary observations. The Secretariat forwards the amended preliminary long list to the EEAS for review. Two and a half weeks before the Joint Committee meeting, the EEA EFTA States and the EEAS send their final comments to the Secretariat, which sends out the confirmed long list the same day.

Each EEA EFTA State informs the Joint Committee which of the JCDs require the fulfilment of constitutional requirements.

In exceptional cases, outside Joint Committee meetings, JCDs can be adopted by written procedure in the form of exchange of letters.



### **3.4. Fulfilment of constitutional requirements**

The fulfilment of constitutional requirements or the delay thereof is notified to the Secretariat by the EEA EFTA State concerned before the expiry of the six-month period referred in Article 103 of the EEA Agreement. The Secretariat forwards the notification to the other EEA EFTA States and the EEAS.

## **4. DEROGATIONS FROM THE PROCEDURES**

In urgent cases, following agreement with the EEA EFTA States, deviations can be made from the procedures as appropriate.

## **5. DISCUSSIONS UNDER THE STANDING COMMITTEE STRUCTURE**

### **5.1. WG/EG level**

When an act raises difficulties for one or more of the EEA EFTA States or requires special adaptations, discussions should take place as soon as possible by email, telephone or videoconference to ensure a rapid solution. If a rapid solution cannot be found, the item is put on the agenda of the next meeting of the relevant WG/EG. The same applies for acts where one or more EEA EFTA States are late with their replies to a standard sheet or a draft JCD.

If no agreement can be found within the WG/EG, the matter can be submitted to the relevant subcommittee.

Informal discussions with the Directorates-General of the Commission are taken up when considered necessary. No informal discussions take place with the EU on acts raising EEA horizontal challenges (see [1.1.2., B\), b\)](#) without the prior agreement of the relevant subcommittee.

**5.2. Subcommittee level**

Important issues, including EEA horizontal challenges (see [1.1.2., B\), b](#)), are put on the agenda of the subcommittees so that they can monitor progress and provide the necessary guidance, with a view to reaching an EEA EFTA position.

If no agreement can be found within the subcommittee, the matter can be submitted to the Standing Committee.

**5.3. Standing Committee level**

Where an act raises important issues, it is brought to the attention of the Standing Committee.

---