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REPORT

on

The future of the EEA and the EU's relations with the small-sized countries and Switzerland

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Introduction

The review of the European Economic Area (EEA) has gained additional momentum since the EEA Joint Parliamentary Committee (JPC) adopted its Resolution on the Review of the EEA on 3 May 2012.[1] There were a number of developments during the second half of last year and, most importantly, there are now more detailed assessments of the functioning of the EEA Agreement on the EU side as well as on the EEA EFTA side.

On the EU side, the European Commission published a paper on "A review of the functioning of the European Economic Area" on 7 December 2012[2], taking stock of the functioning of the EEA Agreement over the past two decades and pinpointing the main issues to be considered in developing the future approach of the European Union in this area. The EU Council also adopted its Conclusions on the EU's Relations with the EFTA Countries on 20 December 2012[3]. The two documents have served as basis for discussions in the EFTA Group of the Council during the spring of 2013.

On the EEA EFTA side, the Norwegian Government issued a White Paper on 'The EEA Agreement and Norway's other agreements with the EU"[4] in October 2012. On the basis of the White Paper the Norwegian Parliament adopted a resolution on this subject on 9 April 2013[5]. Liechtenstein published a review of the working of the EEA in 2010, and this analysis has now been complemented by a study commissioned by Liechtenstein on "The EEA Review and Liechtenstein's Integration Strategy"[6], which was published in March 2013.

The Conclusions of the last two EEA Council meetings of 26 November 2012 and 21 May 2013 also assess the functioning of the Agreement.

The EEA has furthermore featured in the discussions on the future of EU-Swiss relations and the EU's relations with the three small-sized countries (Principality of Andorra, Principality of Monaco and Republic of San Marino).[7] With regard to Switzerland, the EU has been advocating an EEA-like "horizontal" institutional solution, which would guarantee the homogeneity of the Internal Market rules in practice. The EEA is also an important point of reference in the Commission's assessment of future EU relations with Andorra, Monaco and San Marino. The

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[1] http://www.efta.int/~/media/Documents/advisory-bodies/parliamentary-committee/jpc-resolutions/adopted-resolutions-2012-05-04.pdf.

[2] European Commission staff working document titled "A review of the functioning of the European Economic Area" SWD (2012) 425 final: http://www.europarl.europa.eu/RegData/docs_autres_institutions/commission_europeenne/swd/2012/0425/COM_SWD(2012)0425_EN.pdf.

[3] EU Council Conclusion on EU Relations with EFTA Countries, adopted on 20 December 2012: http://eeas.europa.eu/norway/docs/2012_final_conclusions_en.pdf.

[4] The main messages of the White Paper are summarised on the webpage of the Norwegian Mission to the EU: http://www.eu-norway.org/news1/Norway-the-EEA-Agreement-and-Norways-other-agreements-with-the-EU/.

[5] Available online in Norwegian: http://www.stortinget.no/Global/pdf/Innstillinger/Stortinget/Inns-201213-227.pdf.

[6] http://www.ceps.be/book/eea-review-and-liechtenstein%E2%80%99s-integration-strategy.

[7] Hereafter Andorra, Monaco and San Marino.

Commission's paper on this subject[8] concludes that the participation of the small-sized states in the EEA is one of the two preferred options for closer integration of the three states with the EU.

The EEA JPC has adopted two resolutions on the future of the EEA, in 2008[9] and in 2012, both of which raise a number of pertinent questions in the ongoing debate about the EEA. This report builds on the 2012 resolution, taking into account the most recent developments on both the EU and the EEA EFTA sides, including those related to EU relations with the three small-sized countries and Switzerland.

The first part of the paper will summarise the context of the review, with an emphasis on elements that are either more recent or have been discussed less. The second part starts with an overall assessment of the functioning of the EEA and then discusses the key issues to be addressed in the EEA review. The third chapter addresses the specific issue of the participation of the small-sized countries and Switzerland in the EU's Internal Market, and the fourth chapter deals with the parliamentary scrutiny of the EEA Agreement.

1. Context

It is important to recall the context of the current review of the EEA, and the following paragraphs will touch upon the main elements. Although some of these issues were already discussed in the 2012 EEA JPC Resolution on the EEA Review, other contextual elements have been less reflected upon, either because they relate to fairly recent developments or because previous assessments have focused on other issues instead.

The Agreement on the European Economic Area was negotiated more than 20 years ago, before the EU even existed. There have been three major treaty reforms since the Agreement entered into force in 1994. The most recent, and probably the most significant change with respect to the workings of the EEA, was the entry into force of the Lisbon Treaty in December 2009.

The impact of the Lisbon Treaty on the functioning of the EEA Agreement has been widely discussed both in academic literature and in relevant EEA policy documents. The most important change was that the Lisbon Treaty abandoned the pillar structure of the EU, making EU policy making more streamlined, with the same procedures across both the old first and third pillars. However, the Treaty not only widened and deepened the scope of European integration considerably beyond the Internal Market, but also changed the institutional balance of power in the EU, notably by enhancing the powers of the European Parliament (EP) and strengthening the role of the EU national parliaments in EU policy making.

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[8] European Commission staff working document titled "EU Relations with the Principality of Andorra, the Principality of Monaco and the Republic of San Marino. Options for Closer Integration with the EU" SWD(2012) 388 final: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2012:0680:FIN:EN:PDF.

[9] http://www.efta.int/~/media/Documents/advisory-bodies/parliamentary-committee/jpc-resolutions/adopted-resolutions-2008-11-04.pdf.

The EU has also undergone significant institutional and policy changes beyond those contained in the Treaty. The deepening economic integration in the EU triggered by the economic and financial crisis is a case in point. For instance, the new financial supervisory structure, which entered into force on 1 January 2011, established three new European Supervisory Authorities (ESAs) to supervise banks.[10] These EU agencies, like agencies in other policy areas (e.g. energy), have been given wide-reaching powers to issue decisions that are binding on national authorities and individual market actors. This arrangement raises a number of questions relating to the two-pillar structure of the EEA Agreement and poses constitutional challenges for the EEA EFTA States, which will be discussed in more detail in the next chapter.

In addition, there have been a number of developments in the Single Market, which should be considered when the EEA cooperation is now being reviewed. The Single Market is seen as an important driver for economic growth and employment in the EU, which is particularly necessary in the context of the financial and economic crisis. The strengthening of the Single Market is consequently at the core of tackling this crisis in the EU. All three EU institutions have expressed their commitment to undertaking further efforts to improve the transposition, implementation and monitoring of Single Market legislation.

The March 2012 European Council[11] recognised the need to strengthen the governance of the Single Market and to improve its implementation and enforcement. It also stressed "the importance of completing the Single Market and removing remaining barriers". In 2011 the European Commission published an annual action plan and a report titled "Annual Governance Check-up"[12], presenting an integrated view of the results achieved and input received at all stages of the Single Market governance cycle. The Commission took an important step towards strengthening Single Market governance by proposing a number of measures in its communication on "Better Governance for the Single Market"[13]. It identified the following key areas deserving particular attention:

- The Commission would focus its efforts on improving governance of key service sectors and industries;

- The Commission requested Member States to commit to "zero tolerance" in the transposition of directives;

- The Commission announced that it would use its enforcement powers more vigorously, and requested the cooperation of Member States to ensure that breaches of EU law were brought swiftly to an end within 18 months, or 12 months in the case of second referral;

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[10] The European Banking Authority (EBA), the European Insurance and Occupational Pensions Authority (EIOPA), and the European Securities and Markets Authority (ESMA).

[11] See European Council Conclusions of 1-2 March 2012: http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/128520.pdf

[12] http://ec.europa.eu/solvit/site/docs/single_market_governance_report_2011_en.pdf

[13] http://ec.europa.eu/internal_market/strategy/docs/governance/20120608-communication-2012-259-2_en.pdf

- Moreover, to facilitate even closer cooperation between Member States and the Commission, a European network of Single Market Centres would be created.

The EP made a number of suggestions to improve Single Market governance in its two resolutions of 6 April 2011[14] and 7 February 2013.[15]

The exact impact of the new measures in the area of Single Market governance on the functioning of the EEA Agreement remains to be seen. Certainly the EU side will expect the EEA EFTA countries, as full participants in the Single Market, to commit to the more stringent approach in their implementation of the relevant legislation. The increased use of regulations instead of directives as the legal instrument for regulating the Single Market, and the higher frequency of employing decisions, both of which have a "direct effect", already have direct consequences on the functioning of the Agreement, which will be discussed in the next chapter.

Last but not least, there have been several recent developments in relation to the EU models for third-country relations, which might have repercussions for the future of the EEA (e.g. relations to Switzerland and the three small-sized countries Andorra, Monaco and San Marino). These developments will be addressed in more detail in the third chapter.

2. Overall Assessment and Main Challenges

There is a solid consensus both on the EU side and on the EEA EFTA side that the Agreement has served the parties well, by allowing Iceland, Liechtenstein and Norway to participate in the Single Market to the benefit of citizens and businesses of all 30 EEA countries. Moreover, the EEA Council Conclusions adopted on 26 November 2012[16] describe the Agreement as a "durable instrument" ensuring the smooth functioning of the EEA. The emphasis on "durable" seems highly appropriate, given the dynamics of the environment described above. The fact that the Agreement has remained virtually unchanged since its entry into force in 1994 is in itself remarkable. At the same time it is important to remember that the Agreement is also uniquely dynamic, by continuously incorporating new legal acts into its annexes.

Notwithstanding the overall satisfaction with the functioning of the Agreement, it cannot be taken for granted that the EEA in its current form will continue to live up to the expectations that the EU and the EEA EFTA States have placed upon it. Recent discussions have been focusing on the following challenges in particular:

Timely incorporation of legal acts into the EEA Agreement

[14] EP Resolution of 6 April 2011 on Governance and Partnership in the Single Market: http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P7-TA-2011-0144&language=EN.

[15] EP Resolution of 7 February 2013 on Governance of the Single Market: http://www.europarl.europa.eu/sides/getDoc.dG?pubRef=-//EP//TEXT+TA+P7-TA-2013-0054+0+DOC+XML+V0//EN.

[16] http://eeas.europa.eu/norway/docs/2012_adopted_eea_council_conclusions_en.pdf.

A growing concern for the EU is the significant number of EEA-relevant legal acts that have already been adopted by the EU, but where their inclusion in the EEA Agreement is pending. This so-called "backlog" of legal acts undermines the legal certainty and homogeneity of the Internal Market.

The "backlog" should not only be seen in the context of the increased legislative activity in the EU, but also in relation to the increased use of regulations instead of directives and the higher frequency of employing decisions, both of which have a "direct effect". This is probably not a random development, but a consequence of changing Single Market governance. In its communication on "Better Governance for the Single Market", the Commission expresses its intention to propose regulations instead of directives "notably where there is no need for further discretion when implementing the proposed EU rules". The EP's Resolutions of 6 April 2011[17] and 7 February 2013[18] call for choosing regulations rather than directives as the preferred legal instrument for regulating the Single Market, where appropriate.

The EEA EFTA side has undertaken efforts to reduce the backlog. Last year new procedures were adopted by the EFTA Standing Committee and new working methods were introduced in cooperation with the European External Action Service (EEAS) of the EU. As a result, 2012 saw the largest number of EEA Joint Committee Decisions (JCDs) adopted in a decade.

While it is inherent in the EEA Agreement that there will be a certain delay in the incorporation of a legal act after it has been adopted in the EU, it is essential to keep this period to an absolute minimum. The administrative changes of 2012 show that the streamlining of procedures can yield concrete results. This should be pursued further by critically reviewing current practices and examining possibilities for speeding up the procedure at all stages of the incorporation process. The streamlining of procedures in order to speed up the incorporation of relevant legislation into the EEA Agreement is becoming a matter of urgency, particularly in view of a more stringent approach towards the implementation of Single Market rules in the EU.

Apart from the pending legal acts, commonly referred to as the issue of "backlog of legal acts", there are also a number of outstanding issues, such as the Data Retention Directive, the Directive on Deposit Guarantee Schemes and the Third Postal Directive, which are politically difficult for the EEA EFTA States. With regard to these issues, the Commission's staff working document on the EEA review has hinted to the possibility of invoking Article 102 of the EEA Agreement, which would result in the suspension of the relevant part of the Agreement, should the conciliation foreseen under the Article yield no results.

Last year the Norwegian government has decided to change the tariff system for certain agricultural products. The EU has regretted this decision and encouraged Norway to reverse these measures.

Determining the EEA relevance of EU legal acts

[17] See FN 13.
[18] See FN 14.

One important implication of the Treaty changes and of the evolution of policy making on the EU side is that the borderlines between Single Market policies and other policies have become more blurred. In practice, the EU is nowadays adopting more and more overarching policy packages including legislation with many dimensions, rather than individual acts. As a result of these developments, it has become more difficult to determine which legislation falls within the scope of the EEA Agreement. Moreover, there are no transparent criteria according to which a decision on the EEA relevance of a legal act can be taken.

This arrangement has allowed for flexibility and has been politically expedient in situations where the EEA EFTA side has opted to take over rules which were not initially marked as EEA relevant by the EU side.

In spite of the fact that there have been no major disagreements until now, disputes cannot be excluded in the future. The lack of specific criteria could be problematic, not only in the case of a disagreement between the EU and the EFTA EEA side, but also if there are divergent views among the EEA EFTA States. It would be beneficial to all parties to have more clarity in the determination of EEA-relevance.

Participation of the EEA EFTA States in EU agencies

Issues related to the participation of the EEA EFTA States in EU agencies, authorities or similar bodies were extensively dealt with in the EEA JPC Resolution adopted on 27 November 2012. The key issue is that the new agencies have been given extended powers, including the power to take decisions that are binding on the EU Member States. It is important for the successful functioning of the EEA that the EEA EFTA States participate fully in all EEA-relevant agencies, authorities and bodies. However, participation in some of these poses constitutional challenges for the EEA EFTA States.

An example of this is the new European Supervisory Authorities (ESAs)[19]. The three ESAs supervise banks, insurance and pensions, and securities[20]. The powers of the ESAs include the banning of financial products, consumer protection on financial markets, binding mediation in cases of conflict between national supervisors, and decisions that are addressed directly to national authorities and financial market participants.

The challenge for the EEA EFTA States lies in the wide-reaching powers of the ESAs over their national authorities and market participants. Giving the ESAs such powers over the EEA EFTA States would be contrary to the two-pillar system of the EEA Agreement. It would also pose significant constitutional problems for the EEA EFTA States to accept decisions made directly by the ESAs.

The Commission paper on the EEA review tentatively suggests that an agreement on a horizontal approach to the participation of EEA EFTA States in agencies and other

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19 European Banking Authority, European Securities and Markets Authority, and the European Insurance and Occupational Pensions Authority.

20 Whereas the European Systemic Risk Board (ESRB), also part of the framework, supervises the economic macro level.

bodies could be one option. Such an agreement should ensure consistency and avoid negotiations on an ad hoc basis.

The Norwegian parliament, in its resolution on the EEA Agreement of 9 April 2013, asked for an institutional solution within the existing two-pillar structure to be considered. The EEA EFTA States are currently in talks with the EU on this.

Involvement of the EEA EFTA States in EU decision making

In view of a perceived "democratic deficit" of the EEA Agreement in the EEA EFTA States, the EEA EFTA countries are continuing to seek better involvement in the EU decision-making process. Whereas it is obvious that countries that are not members of the EU cannot take part in the actual decision-making process, there seem to be good reasons for enhancing the informal involvement of the EEA EFTA States in the policy process, particularly in the EP and the Council.

European Commission

By virtue of the relevant provisions of the EEA Agreement, the EEA EFTA States have formal links to the European Commission, which allows them to influence the preparation of EU legal acts. The Agreement provides for the participation of the EEA EFTA States in various expert groups and committees, including in the so-called "comitology" committees, which usually produce more than 2 000 acts every year. Despite the fact that the EEA EFTA States cannot vote in these committees, the importance of participating in the work that they do should not be underestimated. The EEA EFTA States also have the possibility to send seconded national experts to the Commission, as well as the right to submit EEA EFTA Comments on upcoming legislation.

Enhanced involvement by the EEA EFTA States in the EU decision-making process would be of mutual interest. Most importantly, it would facilitate the taking over of EEA-relevant acquis further down the line, as the EEA EFTA States would be in a better prepared to accelerate its incorporation when it has been adopted on the EU-side.

European Parliament

The European Parliament had an advisory function when the EEA Agreement was negotiated. It has been strengthened with several treaty reforms, especially with the entry into force of the Lisbon Treaty in December 2009. As a result of these changes, it has become a fully-fledged co-legislator on an equal footing with the EU Council. These changes have been especially challenging for the EEA EFTA States because the EEA Agreement does not provide them with any formal link to the EP to influence legislation.

The EP has responded to the concerns of the EEA EFTA States by starting to invite EEA EFTA parliamentarians to relevant interparliamentary meetings with the EU national parliaments. Some committees have been extremely active in engaging in political dialogue with the EEA EFTA countries by inviting their representatives to participate actively in public hearings and committee meetings.

The Norwegian Parliament has been particularly active in developing a new framework for relations with the EP. In order to facilitate closer and more regular contact between the Norwegian Parliament and the EP, it has established an office at the premises of the EP in Brussels - a model that should be actively suggested to other concerned national parliaments.

EU Council

There is a common practice of inviting EEA EFTA Ministers to informal EU ministerial meetings and ministerial conferences relevant to EEA EFTA participation in the Internal Market. Officials from the EEA EFTA States are invited to political dialogue meetings in the respective Council working parties.

More formalised arrangements with the four EFTA Member States have been introduced in the context of the Schengen agreements. The four countries participate in Schengen-related work through mixed committees that meet parallel to EU Council working parties. Their meetings are attended by representatives of the governments of EU Member States, the Commission and third-country governments. However, Iceland, Liechtenstein, Norway and Switzerland do not take part in any votes taken in this connection.

3. EU Relations with Switzerland and the three Small-Sized Countries (Andorra, Monaco and San Marino)

The EU views the Single Market as one of the greatest achievements of the European project, which is needed more than ever in the context of the financial crisis. The homogeneity of the Single Market is therefore very important for the EU, both within the EU as well as in relation to third countries having access to the Single Market. Consequently, existing bilateral agreements that allow for third-country participation in certain parts of the Single Market should be understood and implemented in the same way in the EU and in the respective third countries.

EU-Swizerland relations

Switzerland is the only country of EFTA that is not a member of the EEA. It participated in the negotiations leading to the conclusion of the EEA Agreement, but its participation in the Agreement was contested in a popular vote in 1992. Switzerland consequently developed an approach for closer relations with the EU based on specific sectoral agreements (the so called “bilateral way” or “sectoral approach”).

As opposed to the EEA Agreement, the EU-Swiss bilateral agreements did not establish mechanisms to ensure their adaptation to new EU legislation, their uniform application and interpretation, or the settlement of disputes. With the increasing number of sectors covered by the agreements, these shortcomings have become more pressing. For this reason, both the EU Council and the EP have taken the view that the current institutional framework of EU-Swiss relations needs to be reconsidered. This discussion is currently being referred to as the debate on “institutional issues”.

As in the earlier Conclusions of 2008[21] and 2010[22], the Council Conclusions of 20 December 2012 reiterated the fact that the sectoral approach followed until now had reached its limits and underlined the need for a legally binding mechanism for the adaptation of the agreements to the evolution of the acquis, as well as the need for independent surveillance and judicial control mechanisms. The EP expressed similar views on the institutional issues in two resolutions adopted in 2010[23] and 2012[24]. The EP stressed that the new institutional framework should guarantee greater predictability for both EU and Swiss citizens and businesses.

In response to the EU's concerns, Switzerland transmitted proposals on institutional issues in a letter from President Widmer-Schlumpf to President Barroso on 15 June 2012.

The EEAS and the Commission subsequently prepared an internal assessment of the Swiss proposal, which concluded that the proposal fell short of what was required, namely with regard to achieving more homogeneity as well as uniform interpretation and application of the agreements. Hence, several Members of the European Parliament openly suggested to establish a joint dispute settlement body, both with Swiss and EU nominated judges, in order to decide in a legally binding manner on possible future disputes.

The Council's final position is formulated in the Council Conclusions of 20 December 2012. While the Council welcomed the efforts made by Switzerland to formalise proposals on the institutional issues, it also called for "further steps" to ensure the homogeneous interpretation and application of the Internal Market rules. The Council furthermore tasked the Commission with reporting on the progress in the exploratory discussions and, in the light of such progress, considering the possibility of presenting a recommendation for opening negotiations with Switzerland.

President Barroso replied to the Swiss President's letter on 21 December 2012, stating that the Swiss proposals seemed to fall short of what was required (and what the Council and EP had been asking for).

Since then, the EU and Switzerland have held two rounds of exploratory discussions on the institutional issues. The last meeting, between EEAS Chief Operating Officer Mr David O'Sullivan and the Swiss State Secretary for Foreign Affairs Mr Yves Rossier, took place on 20 March 2013. The meetings were generally constructive and held in a positive atmosphere. The purpose of the talks is to examine all possible solutions in order to identify areas where an agreement could be possible.

EU relations with Andorra, Monaco and San Marino

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[21] Council Conclusions on EU-EFTA Relations, 8 December 2008:
http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/gena/104617.pdf

[22] Council Conclusions on EU Relations with EFTA Countries, 14 December 2010:
http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/118458.pdf

[23] EP Resolution of 7 September 2010 on EEA-Switzerland: Obstacles with regard to the full implementation of the Internal Market.

[24] EP Resolution of 24 May 2012 on Swiss quotas for the number of residence permits granted to nationals of Poland, Lithuania, Latvia, Estonia, Slovenia, Slovakia, the Czech Republic and Hungary.

According to Article 8 of the Treaty on European Union (TEU), the EU "shall develop a special relationship with neighbouring countries, aiming to establish an area of prosperity and good neighbourliness, founded on the values of the Union and characterised by close and peaceful relations based on cooperation".

The EU Council Conclusions of December 2010[25] highlighted that the EU's relations with Andorra, Monaco and San Marino were "extensive but fragmented". The Council called for "an analysis of the possibilities and modalities of their possible progressive integration into the Internal Market". The Conclusions were followed by a report adopted under the Hungarian Presidency in 2011, which invited the EEAS and Commission to continue their exploratory work. On 20 November 2012 the Commission adopted a staff working document, which discusses future options for EU relations with the three small-sized countries. The EU Council adopted its most recent Conclusions on EU relations with Andorra, Monaco and San Marino on 20 December 2012.[26] All three small-sized countries have signalled their interest in developing a closer economic relationship with the EU, at the same time expressing their wish to safeguard their specificities and identities.

Andorra, Monaco and San Marino are independent states of small territorial size. They enjoy good relations with the EU through bilateral agreements. Andorra and San Marino have a customs union with the EU, while Monaco has a customs union with France. Financial services and tourism are key areas for all three countries. However, there are differences in the importance of the industrial and agricultural sectors, and in geographic and demographic situations.

In any event, there would be mutual benefits from closer economic integration between the small-sized countries and the EU. There is a clear economic interest on the side of the small-sized countries to enhance their relations with the EU. Currently businesses from these countries face obstacles when wishing to provide services in the EU, as their existing agreements with the EU do not provide for the free movement of services or of establishment. Their customs unions agreements facilitate to a certain extent bilateral trade in goods with the EU, but these countries still face market access obstacles in the form of technical barriers to trade, such as the EU's rules in the areas of consumer protection and product safety.

The EU could seek a deeper economic integration with the small-sized countries in a number of areas. Given the significant regional importance of their economies, EU citizens and businesses would in particular gain from employment opportunities in these countries. It would also be in the EU's interest to establish a common legal framework for the implementation of the agreements, which would make it easier to address common challenges together. According to the European Commission, there is also potential to enhance cooperation on a wide range of other issues, from regional policy to foreign and security policy.

The Commission working staff paper outlines five possible options for the future of relations between the EU and the three small-sized countries, ranging from status quo to EU membership. As in the discussions on institutional issues with Switzerland, the

[25] http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/118458.pdf .
[26] http://ue.eu.int/uedocs/cms_data/docs/pressdata/en/trans/134524.pdf.

Commission insists that a possible agreement with the small-sized countries would need to guarantee the homogeneity of the Internal Market and legal certainty for citizens and economic operators. To that end, any such agreement would need to address four issues:

(1) The dynamic adaptation of the agreement to the evolving acquis;

(2) The homogenous interpretation of the agreement;

(3) Independent surveillance and judicial enforcement mechanisms;

(4) Dispute settlement.

The analysis also acknowledges that the future framework would need to take into account the specificities and particular identities of the three countries. The Commission concludes that there are two preferred options: either a framework association agreement drawing on the EEA model, or membership of the EEA. The latter would naturally have implications for the EEA EFTA States and it would thus be expected that the EU engages in close dialogue with the EFTA side if/when further elaborating on this option.

Following the publication of the Commission's assessment, the EU Council expressed its opinion on future EU relations with the three small-sized states on 20 December 2012. The Council Conclusions follow the Commission's line by highlighting membership of the EEA and a framework association agreement(s) as the most viable options for giving the three countries access to the EU's Internal Market. The Council furthermore invites the Commission and the High Representative to hold consultations with the governments of the small-sized countries, and to submit a report with recommendations regarding further steps by the end of 2013.

5. Strengthening Parliamentary Scrutiny

The EEA JPC was set up by the EEA Agreement in order to "contribute, through dialogue and debate, to a better understanding between the Community and the EFTA States in the fields covered by this Agreement". Article 95 EEA further stipulates that "the EEA Joint Parliamentary Committee may express its views in the form of reports or resolutions, as appropriate." The resolutions have indeed been the main form in which the EEA JPC has regularly expressed its opinion on matters related to the EEA Agreement.

In addition, the EEA JPC has made considerable efforts to involve in its discussions the EP parliamentary committees and rapporteurs on EEA relevant legislative proposals. It has also invited several Commissioners to its meetings. The aim has been to raise awareness about the EEA related aspects of the relevant legislative proposals.

The EEA Council usually takes note of EEA JPC resolutions. However, there is no systematic follow-up given to the requests made in the EEA JPC resolutions by the EU or the EEA EFTA executives. It is therefore important to remedy this by requesting the executives to prepare a written response to the resolutions adopted by the EEA JPC, including a reply to the requests made in the resolution and an overview

regarding the action that the Commission / EEA EFTA States have taken or intend to take. This should be submitted to the EEA JPC well in advance of its following meeting.