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## **I INTRODUCTION**

1. The two words that most frequently are used to describe the EEA are "homogeneous and dynamic". The aim of ensuring a homogeneous EEA is reflected in various ways throughout the EEA Agreement. The provisions of the Agreement are, to a large extent, identical to the corresponding provisions of Community law. The dynamism of the Agreement is reflected mainly in its decision-making provisions, which provide for the integration into the EEA of new secondary Community legislation. For the EEA to remain homogeneous the two legal systems have to be interpreted, applied and enforced in a uniform manner. To maintain EEA homogeneity requires a dynamic approach taking into account, inter alia, political developments, new treaty dimensions and case law.

2. New issues arising from the Amsterdam Treaty which do not have any clear corresponding legal basis in the EEA Agreement can create formal legal gaps between the two pillars. The new treaty furthermore contains enabling clauses that may lead to developments on the EU side which, if deemed EEA-relevant, could prove difficult to tackle on existing legal bases.

3. The Single Market will now be affected by several important developments, such as enlargement and the common currency. On the one hand, the increased transparency and competition resulting from the euro, may put increased pressure on the Single Market with demands for its completion, as well as harmonisation in new areas. On the other hand, there may also be pressures to erect barriers to the free movement of people, goods, services and capital.

4. Enlargement may also give rise to pressures to interfere with the Single Market. Accession measures could lead to its fragmentation. Administrative mechanisms and institutions in the new member countries must be sufficiently strong to guard the operation of the Single Market.

5. This report, while emphasising the importance of the various factors mentioned in the above paragraphs, will focus on the decision-making and implementation aspects of maintaining a homogeneous EEA of 15 EU and 3 EEA EFTA countries.

## **II DECISION-MAKING IN THE EEA JOINT COMMITTEE**

6. Rapid and effective operation of the EEA Joint Committee structure is an important prerequisite for preserving the homogeneity of the EEA. During 1998 the Commission and the EFTA Secretariat have reviewed procedures and there have been efforts to accelerate decision-taking by the EEA Joint Committee. Monitoring of acts that are being processed by the EEA machinery has been improved. These efforts have proved successful in reducing the backlog. But during 1998 there has been an increase in the annual number of acts to be incorporated into the Agreement and a significant backlog still exists.

7. In order to alleviate the problem of delays in the publication of Joint Committee decisions on the EFTA side, extra resources have been allocated to translation of the related acts into Icelandic and Norwegian. At the end of 1998 there still remained a significant time lag between adoption and publication of Joint Committee decisions.

8. EFTA participation in many EU programmes has been deemed necessary in order to maintain homogeneity. EU programmes are often only adopted by the EU very close to their planned commencement, thus giving very little time for the completion of Joint Committee procedures and constitutional procedures in the EFTA States where necessary. A strict application of rules on the need to have a legal basis before participation in programmes can start, can lead to delays and interruptions in EFTA participation in programmes.

### **III THE SINGLE MARKET ACTION PLAN**

9. The Single Market Action Plan (SMAP), adopted by the Amsterdam European Council in June 1997, has the objective of improving the performance of the Single Market. The Action Plan has four strategic targets: a) Making the rules more effective; b) dealing with key market distortions; c) removing sectoral obstacles to market integration and; d) delivering a Single Market to the benefit of all citizens.

10. The SMAP has proved effective to improve the implementation of the Single Market. It is important to keep the momentum to continue to strengthen the administrative procedures that have evolved and maintain the general political emphasis on completing the Single Market in all the 18 EEA countries.

### **IV THE SINGLE MARKET SCOREBOARDS**

11. The Commission publishes a "Single Market Scoreboard" containing detailed indicators of the state of the Single Market and of Member States' level of commitment to implementing the Action Plan. The EFTA Surveillance Authority publishes the "Single Market Scoreboard – EFTA States". The EFTA Scoreboard No 3 (October/November 1998) was published concurrently with the Commission's third edition. The EFTA Scoreboards have a more limited scope but present "homogeneity" indicators in a comparable format.

12. The Commission's Single Market Scoreboard no. 3 of November 1998 deals with 1.365 single market directives that were part of the "acquis communautaire" on 15 October 1998. On the same date, the number of single market directives which were part of the EEA Agreement, and form the basis of the statistics of the EFTA Single Market Scoreboard no. 3, was 1.225.

13. There are mainly two reasons for the number of single market directives being lower in the EFTA Surveillance Authority's Scoreboard than that of the Commission.

Firstly, some single market directives, for example directives dealing with various aspects of the citizenship of the EU, fall outside the scope of the EEA agreement. Secondly, while EEA relevant, some of the single market directives included in the Commission's Scoreboard have not yet been made part of the EEA Agreement through an EEA Joint Committee decision to amend the Annexes and Protocols of the Agreement.

## V IMPLEMENTATION

### Implementation scores

14. EU Member States have achieved steady progress on implementing single market legislation, with the percentage of directives not yet applied by all EU Member States falling to 14.9 % compared to 26.7 % in November 1997 (Table 1).

**Table 1: Percentage rate of Single Market directives not transposed across the whole of the EU (Source: Commission's Single Market Scoreboard no. 3)**

Nov 1997	26.7%
May 1998	18.2%
Nov 1998	14.9%

15. When the single market directives with effective transition periods in October 1998 are excluded, 12.2 % of the directives included in the EEA Agreement are not transposed across the three EEA EFTA States, compared to 16.2% in November 1997 (Table 2).

**Table 2: Percentage rate of EEA Single Market directives not transposed across the EEA EFTA States (Source: EFTA Single Market Scoreboard no. 3)**

Nov 1997	16.2%
May 1998	13.0%
Nov 1998	12.2%

16. In most member states, the backlog of non-transposed directives has been significantly reduced. However the implementation of directives has varied. A comparison between the 18 EEA States shows that Norway (3.8%) is on par with the United Kingdom and that Iceland (5.4%) lies between Greece and France. Liechtenstein (7.2%) holds the last place after Luxembourg (6.2%) (Table 3).

**Table 3: Percentage rate of EEA Single Market directives not transposed in each EEA country (From: European Parliament, Directorate General for Research, Briefing: Economic Affairs No. 14, Dec.1998. Sources: EFTA and EU Scoreboards No. 3)**

	FIN	S	DK	NL	D	E	NO R	UK	A	B	EL	ISL	F	P	I	IRL	L	LIE
Oct 98	0.9	1.5	1.5	2.1	2.7	2.7	3.8	3.8	4.2	5.2	5.2	5.4	5.5	5.6	5.7	5.8	6.2	7.2
May 98	1.2	2	2.2	2.2	5.4	3.3	4.2	3.8	5.2	7.1	5.5	4.8	5.6	5.9	6.4	5.4	5.6	7.6
Nov 97	4.3	6.2	3.2	3.5	8.5	4.7	6.9	4.6	10.1	8.5	7.5	5.6	7.4	5.9	7.6	5.4	6.5	10.8

### Implementation delays

17. The average delays which the EEA States had incurred by 15 October 1998 (Table 4) in transposing and/or notifying single market directives range from 2.7 months (Finland) to 21.9 months (Liechtenstein). When all the EEA States are put in a ranking order, Norway (13.1 months) qualifies as the 7<sup>th</sup> after Portugal (12.3 months) and before the Netherlands (13.5 months) and Iceland (15.7 months) as the 13<sup>th</sup> between Ireland (14.7 months) and Spain (16.8 months). Liechtenstein (21.9 months) holds the last place after Belgium. While almost all EU Member States have speeded up implementation of new directives, the average delay of notification is still in excess of 12 months.

**Table 4: EEA States observed average delay of notification per directive (measured in months) (Sources: EFTA and EU Scoreboards No. 3)**

	FIN	DK	S	UK	D	P	NO R	NL	A	I	L	IRL	ISL	E	F	EL	B	LIE
<b>Oct 98</b>	2.7	4.4	8.6	9.6	10.8	12.3	13.1	13.5	13.9	14.0	14.4	14.7	15.7	16.8	17.4	17.9	20.6	21.9

### Homogeneity across sectors

18. As regards progress by sector, the pattern of implementation varies. Non-implementation can be mainly ascribed to delays in transposing recent directives, which is probably due to difficulties in managing national procedures in the EU Member States. However, clusters of non-transposition could hint at more deep-seated problems at national level. In the EU (Fig. 1a) such difficulties occur in policy areas which are only now being liberalised, such as telecommunications, public procurement and transport. Across the EFTA States (Fig. 1b), the main problem areas are public

procurement, company law, intellectual property and telecommunications. It is noticeable that, except for the sectors public procurement, intellectual property, telecommunications and environment, the remaining "problem sectors" in the EEA EFTA States do not figure in the problematic sectors of the EU.

**Figure 1a: Non-implemented EEA Single Market Directives by sector: Percentage rate for EU area and number of Directives for each country in October 1998**

	%	B	D K	D	EL	E	F	IR L	I	L	NL	A	P	FI N	S	U K
Telecommunications (15)*	66.7	4			10		2	1	2	6	4		4		3	
Public Procurement (10)	60.0	1	1	1	5	4	1	1	2	1	1	1	4			1
Transport (48)	52.1	12	7	4	5	7	9	17	12	9	8	9	11	3	3	9
Intellectual and industrial property (7)	42.9				2			3	1	1	1		1			
Social Policy (38)	26.3	2		3	5		3	1	8	9		2	4			2
Chemical products (74)	21.6	9	1	5	6	2	7	11	6	7	1	7	6	1		2
Veterinary checks (193)	18.1	10	2	8	13	7	23	14	19	14	4	17	17	2	6	13
Environment (92)	17.4	11	3	4	7	5	6	6	6	4	4	3	5	2	3	6
Cosmetic products (38)	15.8	1			2		3	4	1	3	1	3	2		1	
Food legislation (101)	14.8	3	1	4	4	3	4	10	7	3		6	11	1		2
Capital goods (99)	12.1	8	2	2	2	1	3	4	7	4		2	2	1	1	1
Motor Vehicles (146)	8.2		1	1	1	1	3	1		7	1	1	1	1	1	11
Plant-health checks (172)	6.4	1	1	1	2	1	3	1	2	10	1	4	5	1		3
TOTAL		64	20	33	64	32	67	76	74	80	26	55	74	12	18	50

\* Number of Directives concerned in each sector.

**Figure 1b: Non-implemented EEA Single Market Directives by sector: Percentage rate for EFTA area and number of Directives for each country in October 1998**

	%	ISL	LIE	NOR
Public procurement (6)*	100	2	6	
Company law (11)	90.9		10	8
Intellectual property (6)	66.7	1	4	1
Telecommunications (12)	41.7	5	1	
Insurance (22)	36.4		8	3
Medicinal products (34)	35.3	1		11
Banking (20)	35	2	7	
Dangerous goods (82)	29.3	24	1	1
Environment (28)	25	2	5	1
Labour law (8)	25		2	
Household appliances (8)	25	2	2	
Textiles (4)	25	1	1	1
Stock exchange and securities (14)	21.4	1	3	
Mutual recognition (56)	21.4	3	8	1
Health and Safety (19)	21	2	3	4
<b>TOTAL</b>		<b>46</b>	<b>61</b>	<b>31</b>

\* Number of Directives concerned in each sector.

*Figures 1a and 1b are from: European Parliament, Directorate General for Research, Briefing: Economic Affairs No. 14, Dec.1998. Sources: EFTA and EU Scoreboards No. 3)*

## VI INFRINGEMENT

19. The infringement proceedings in the EU and EEA EFTA context are identical although the institutional arrangements are different. During the 12-month period prior to the publication of the latest Scoreboards, the EFTA Surveillance Authority sent 38 letters of formal notice (initiation of formal infringement proceedings) while the Commission sent 429 letters. The country average on the EFTA side (13 letters) is much lower than on the EU side (29 letters). If the 12 months period between March 1997 and March 1998 is taken for comparison, the country averages are 20 letters for the EFTA side and 26 letters for the EU (Table 5).



**Table 5: Infringement statistics for alleged breaches of single market rules-comparison between the periods 1.9.97-1.9.98 and 1.3.97-1.3.98**

	<i>EFTA</i>	<i>EFTA</i>	<i>EU</i>	<i>EU</i>
	<i>total</i>	<i>average</i>	<i>total</i>	<i>average</i>
	<i>per country</i>		<i>per country</i>	
<i>Letters of formal notice</i>				
<i>1.9.97-1.9.98</i>	38	13	429	29
<i>1.3.97-1.3.98</i>	60	20	395	26

20. The EFTA Scoreboard comments that the country average for the EFTA side (13 letters for the most recent period) can be expected to rise, judging from the Authority's unpublished statistics for September and October 1998. The Commission's Scoreboard remarks that the noticeable increase in the number of infringements on the EU side between the two periods (26 to 29 letters) is largely the result of new working rules on the EU side for the conduct of infringement procedures.

21. The Commission's Scoreboard makes an interesting attempt to analyse the EU statistics on infringements procedures by, for example, breaking the numbers down by sectors, looking at the ratio of court referrals to letters of formal notice and calculating the ratio of cases dropped to letters of formal notice sent to each Member State. These analyses provide valuable insight into the various factors affecting compliance with the rules of the Single Market, such as sensitivity of sectors and the willingness of States to resolve problems. Corresponding work regarding the EFTA countries would be of value.

## **VII FEEDBACK AND PROBLEM SOLVING**

22. As the overall transposition situation is gradually getting better, attention is increasingly focused on the co-operation that has been set up under the Single Market Action Plan in order to ensure efficient application of the common rules. Actions include co-ordinating centres, together with contact points to which citizens and business operators may turn to if they encounter obstacles. The purpose is to reinforce existing co-operation and ensure rapid solution of problems.

23. The Commission's Scoreboard contains reports on the operation of co-ordination centres and contact points for five EU Member States and, on the evidence available, limited use is being made of these facilities so far. The Business Survey (a Gallup survey of over 4000 businesses in the EU), which is also reported on in the Commission's Scoreboard, shows that when faced with barriers doing business in the Single Market, two-thirds of companies had not taken action. And furthermore, only 26 % of companies surveyed, said they had all the necessary information to do business with other EU countries. The number indicate a need to inform about the single market, to make it easier to solve problems and in general, make the whole single market framework more "user friendly".

## **VIII ECONOMIC INTEGRATION**

24. The earlier Commission Scoreboards tried to assess the economic integration in Europe that could be attributed to the single Market and looked at, for example, intra trade ratio between Member States, cross border operations between companies and investment flows. The present Scoreboard, reflecting on the arrival of the euro and the expected effects on integration, investment and industrial restructuring, focuses on Foreign Direct Investments and State Aid in the EU.

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**RESOLUTION**

on Homogeneity in the European Economic Area

The Joint Parliamentary Committee of the European Economic Area:

- A. in accordance with its task laid down in the EEA Agreement (Article 95, paragraph 4),
- B. noting that the aim of the EEA Agreement as stated in Article 1 (Objectives and principles) is to " promote a continuous and balanced strengthening of trade and economic relations between the Contracting Parties with equal conditions of competition, and the respect of the same rules, with a view to creating a homogeneous European Economic Area",
- C. noting that a homogeneous EEA implies that in the area covered by the Agreement individuals and economic operators should be treated in the same way regardless of whether Community law is applied directly or via the EEA Agreement,
  - 1. notes that significant progress on implementing the Single Market Action Plan has been reported in the Single Market Scoreboards in November 1998;
  - 2. welcomes the regular and simultaneous publication of the Single Market Scoreboards, both from the Commission and the EFTA Surveillance Authority and notes that they contain comparable figures for many of the indicators shown;
  - 3. welcomes the inclusion of data concerning the EFTA/EEA States' implementation rate in the Commission's third Scoreboard;
  - 4. calls upon the Commission and the EFTA Surveillance Authority to include all available and relevant data on the EEA EFTA States in the corresponding sections of the Commission's Scoreboard in order to improve transparency;
  - 5. calls upon the EFTA Surveillance Authority to expand the assessment of the Single Market performance of the EEA EFTA States, using monitoring and reporting methods, which allow comparison and co-publication with the Commission's Scoreboard;
  - 6. urges the Commission and the EFTA Surveillance Authority to maintain the pressure on the Member States to eliminate the backlog of transposition of the Single Market legislation into national laws and regulations;
  - 7. calls upon the EEA Joint Committee to continue to find ways to reduce backlogs in incorporating EEA relevant legislation into the Agreement;

8. urges the EEA EFTA States to secure the necessary resources for efficient translation services and, where applicable, rapid procedures to facilitate parliamentary ratification;
9. calls upon the EEA Joint Committee to evaluate whether new issues brought by Maastricht and Amsterdam need to be extended to the EEA to facilitate a homogeneous interpretation and application in the Area;
10. urges the EFTA Surveillance Authority and the Commission to be vigilant in their roles as guardians of the single market in the light of possible attempts to raise barriers in response to pressures from the common currency and enlargement;
11. urges the Commission and EFTA Surveillance Authority to maintain similar policies when making decisions to initiate infringement proceedings;
12. calls upon the EEA Council to urge the governments of the 18 EEA States to increase information activities on rights and responsibilities in the single market and to strengthen the co-ordination centers and contact points set up under the Single Market Action Plan to facilitate feed-back and problem-solving.

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