

EUROPEAN ECONOMIC AREA

JOINT COMMITTEE

26 June 2014

3 Annexes

Ref. 1128422

Annual Report of the EEA Joint Committee 2013 The Functioning of the EEA Agreement (Article 94(4))

General overview

1. The main part of this report provides an overview of the work of the EEA Joint Committee in 2013. Annex I contains a review of the activities of the Subcommittees under the EEA Joint Committee, Annex II contains an overview of the state of decision making in 2013, and Annex III presents a list of EEA Joint Committee Decisions (JCDs) adopted in 2013.
2. Throughout the year, the EEA Joint Committee and the Subcommittees focused on several important areas for the European Economic Area. A few examples to highlight include the new EU acts and legislative proposals establishing the new EU system of financial supervision, the monitoring of outstanding legal acts, the enlargement of the EEA to Croatia, and the review of the EEA Financial Mechanism.
3. The EEA Joint Committee met eight times in 2013 and adopted 235 decisions incorporating 400 legal acts.
4. The EEA Joint Committee adopted several significant decisions in 2013, such as:
 - Decision No 29/2013 on the annual accounts of micro-entities
 - Decision No 50/2013 on the postponement of including international aviation into the EU Emissions Trading System
 - Decision No 75/2013 on trade in illegally harvested timber and timber products
 - Decision No 111/2013 on transfers of defence-related products
 - Decision No 113/2013 on harmonised conditions for the marketing of construction products
 - Decision No 164/2013 on organs transplantation
 - Decision No 173/2013 on promotion of clean and efficient road transport vehicles
 - Decision No 178/2013 on international accounting standards
 - Decision No 202/2013 on equivalences between categories of driving licences
 - Decision No 222/2013 on food intended for infants and young children
 - Decision No 236/2013 on the Requirements for the performance and the interoperability for the single European sky

5. The European Commission provided information to the Joint Committee on:
 - The REFIT initiative
 - Notifications from Cyprus regarding revision of protective measures notified under Article 43 of the EEA Agreement
6. The EEA EFTA States provided information to the Joint Committee on:
 - Notification from Iceland regarding the revision of protective measures under Article 43 of the EEA Agreement
7. The biannual Internal Market Scoreboard, published by the EFTA Surveillance Authority (ESA) in February 2014, shows that the average transposition deficit of the EEA EFTA States increased from 1.2% in the previous scoreboard to 2%. The deficit increased from 2.3% to 3.2% for Iceland, from 0.3% to 1% for Liechtenstein and from 0.9% to 1.8% for Norway. The EU Member States' average transposition deficit increased from 0.6% to 0.7%. The deficit target is 1%. It should be noted that the Scoreboard refers exclusively to legal acts already incorporated into the EEA Agreement. It is to be noted that the Single Market *acquis* applicable in EEA EFTA States does not coincide exactly with that applicable in EU Member States. This situation is due to the time lag between the adoption or abrogation of legal acts by the EU and their incorporation into or deletion from the EEA Agreement. Any comparison of the results from the two different Scoreboards (this one and the EEA EFTA Scoreboard) has to take this difference into account.

Incorporation of *acquis* into the EEA Agreement

8. In 2013, 400 legal acts were incorporated into the EEA Agreement. This is a decrease of 18 % compared to 2012, when 486 legal acts were incorporated. In 2013, 535 legal acts were identified by the EFTA side as possibly EEA relevant, which is an increase of 27 % compared to 2012, when 421 legal acts were identified as possibly EEA relevant.
9. On 19 November 2013, when the monitoring list was run the last time in 2013, there were 506 outstanding legal acts where the compliance date in the EU had passed, compared to 544 acts in December 2011. Despite the joint efforts made to reduce the number of outstanding legal acts, their number had not decreased by more than 7 % since December 2011 and increased by 21% as compared to December 2012.
10. The number of JCDs awaiting fulfilment of constitutional requirements for more than six months in line with Article 103 of the EEA Agreement stood at 7 on 31 December 2013, as compared to 12 as of 31 December 2012. There were 15 "linked" JCDs where the entry into force depended on the fulfilment of constitutional requirements of other already adopted JCDs, as compared to only 2 on 31 December 2012.
11. In total 117 legal acts adopted by the EU in 2013 were incorporated into the EEA Agreement in 2013, as compared to 83 legal acts incorporated in the same year in 2012. This demonstrates an improvement in the management of new acts with their timely incorporation into the Agreement.

12. In 2013, the EFTA side initiated a project with the aim of identifying and implementing further actions needed to permanently reduce the number of outstanding acts and avoid their re-emergence.

EEA EFTA participation in EU agencies and programmes

13. The EEA EFTA States participated in 20 EU programmes and 18 agencies, of which 13 were regulatory agencies and five executive agencies.

Decision shaping

14. The EEA EFTA States submitted EEA EFTA Comments on the following subjects:

- Collective management of copyright and related rights and multi-territorial licensing of rights in musical works for online uses in the internal market
- Posting of workers in the framework of the provision of services
- Elements for a new SOLVIT recommendation
- Electronic identification and trust services for electronic transactions in the Internal Market
- Occurrence reporting in civil aviation
- Follow-up to the Single Market Act I and Single Market Act II
- The new EU occupational safety and health policy framework
- Consumer product safety and market surveillance
- Comparability of fees related to payment accounts, payment account switching and access to payment accounts with basic features
- Certain rules governing actions for damages under national law for infringements of the competition law provisions of the Member States and of the European Union
- Measures concerning the European single market for electronic communications and to achieve a Connected Continent
- Information accompanying transfers of funds

Advisory bodies under the EEA

15. The EEA Consultative Committee held its annual meeting in Rovaniemi, Finland, on 10-11 October 2013. The Committee adopted two resolutions and reports on

- The opportunities and challenges in a changing Arctic region
- The role of social partners in the transition of young people from education to the labour market

16. The EEA Joint Parliamentary Committee held a meeting on 29-30 May 2013 in Brussels in which it adopted three resolutions on the following topics:

- The future of the EEA and the EU's relations with the small-sized countries and Switzerland
- Transport Policy in the EEA
- The Annual Report of the EEA Joint Committee on the Functioning of the EEA Agreement in 2012

17. The EEA Joint Parliamentary Committee also held a meeting 28-29 October 2013 in Vaduz, Liechtenstein, in which it adopted two resolutions, which were subsequently forwarded to the EEA Joint Committee and the EEA Council, on the following topics:

- Arctic Policy
- Citizen's Rights in the European Union and the European Economic Area

In October 2013, the Joint Committee sent a letter to the Joint Parliamentary Committee in response to the information request made in the Resolutions adopted in May 2013.

EEA Financial Mechanism

18. More than 25 % of funding for the 2009-2014 EEA Financial Mechanism has been allocated to programmes dealing with environmental issues and climate change. Cultural heritage, civil society, human and social development, and research and scholarships do also receive significant funding.

19. Throughout 2013 there has been a continued focus on ensuring the bilateral aspects in all programmes. To enhance cooperation and exchange, more than half of the programmes involve cooperation with donor programme partners (DPPs). These partnerships have been consolidated throughout 2013. There are 87 programmes with a donor programme partner, involving 24 public entities from the donor countries as well as the Council of Europe. Furthermore, 98 pre-defined projects had a partner from the donor countries by the end of 2013.

20. In accordance with Article 9 of Protocol 38B on the EEA Financial Mechanism, a review of the need to address economic and social disparities within the European Economic Area was undertaken in 2013. The conclusion of the review, to which both the EU and the EEA EFTA sides contributed, was that there still was a need to alleviate social and economic disparities in the European Economic Area. It was agreed that negotiations on the continuation of contributions would be launched in 2014.

Enlargement of the EEA to Croatia

21. Negotiations to include Croatia into the EEA upon its accession to the European Union were concluded in November 2013 and the draft EEA Enlargement Agreement was initialled on 20 December 2013. Preparations for the signature of the Agreement are ongoing and provisional application of the Agreement is foreseen upon signature in early 2014.

Article 19 – Trade in agricultural products

22. Article 19 of the EEA Agreement foresees inter alia biannual reviews of trade conditions in agricultural products. By the end of 2013, negotiations had started with Iceland but not with Norway. Increased Norwegian custom duties for certain agricultural products remained in place at the end of 2013.

E U R O P E A N E C O N O M I C A R E A

J O I N T C O M M I T T E E

Annex I to ref. 1128422

A C T I V I T I E S O F J O I N T S U B C O M M I T T E E S I N 2 0 1 3

F R E E M O V E M E N T O F G O O D S

General

1. Subcommittee I approved 265 legal acts for incorporation into the annexes and protocols to the EEA Agreement through 126 EEA Joint Committee Decisions (JCDs).

Veterinary, feedingstuffs and phytosanitary matters

2. 100 legal acts were incorporated in the veterinary field.
3. Each year, a number of legal acts are subject to the simplified procedure. Instead of being incorporated into the EEA Agreement by a Decision of the EEA Joint Committee, the procedures require EEA EFTA States to “simultaneously with the Member States take measures corresponding to those taken by the latter”. The EEA EFTA Member States are, therefore, invited to implement and apply the measures adopted by the European Union in the same manner and within the same deadlines as those applicable to the EU Member States. These acts are taken note of by the EEA Joint Committee.
4. Despite the decision on decoupling of the legislation on novel foods from other legislation on genetically modified organisms was taken in 2012, a draft Joint Committee Decision regarding the incorporation of Regulation (EC) No 258/97 concerning novel food ingredients was not finalised in 2013.

Technical regulations, standards, testing and certification

5. 155 legal acts were incorporated into the EEA Agreement, of which most of the new legal acts related to foodstuffs, dangerous substances and medicinal products.
6. In the field of medicinal products, Subcommittee I continued discussions regarding the incorporation of the Paediatric Regulation into the EEA Agreement. In particular, they discussed whether the competence to impose fines should be given to the EFTA Surveillance Authority (ESA) or whether it should remain with the national authorities. The act has not yet been incorporated into the agreement. Furthermore, the Directive on standards of quality of human organs intended for transplantation was incorporated into the EEA Agreement with certain adaptations applicable to Liechtenstein. Also of note, the Pharmacovigilance Package was incorporated into the EEA Agreement and contains an adaptation text due to Liechtenstein’s bilateral agreement with Austria in this area.

7. In the field of chemicals, a total of no less than 37 acts were incorporated into the EEA Agreement. Most notably, the new Regulation on biocidal products repealing Directive 98/8 was incorporated. In addition, significant progress was made with regard to the incorporation of the Regulation on the placing of plant protection products on the market.

8. In the field of construction products, Regulation 305/2011 was incorporated into the EEA Agreement.

Competition

9. A review of the acts related to the former European Coal and Steel Community (ECSC) that had been incorporated into the EEA Agreement was initiated in 2011. The review is still ongoing.

Public procurement

10. One act was incorporated into the EEA Agreement in the field of public procurement: Directive 2009/81/EC on security and defence related contracts.

Energy

11. 12 acts were incorporated in the field of energy, more than half of which dealt with ecodesign requirements for energy-related products.

12. Important work was undertaken towards the incorporation of the Third Package for the Internal Energy Market into the EEA Agreement. The relevant draft Joint Committee Decision was submitted to the EU side in November 2013 and the discussions are ongoing.

Customs matters and rules of origin

13. A draft JCD aligning the text in Protocol 4 on rules of origin to the text of the Regional Convention on Pan-Euro-Mediterranean Preferential Rules of Origin was prepared.

14. The Joint Working Group on Customs Security Measures started its work with a first meeting in March 2013.

FREE MOVEMENT OF CAPITAL AND SERVICES

15. In Subcommittee II, 92 legal acts were incorporated into the EEA Agreement in the fields of financial services and company law, electronic communication, audiovisual services, information society, and data privacy and transport.

Financial services and company law

16. Twenty-two legal acts were incorporated into the EEA Agreement in the areas of financial services, free movement of capital and company law. This included legislation amending the Solvency II Directive, legislation amending the Prospectus

Directive and implementing acts in connection with the Regulation on credit rating agencies. For some of these acts, the notification of constitutional requirements is pending beyond the 6 month deadline.

17. Discussions continued on the incorporation of new EU acts and legislative proposals, such as the regulations establishing the new EU system of financial supervision (consisting of the European Systemic Risk Board, European Banking Authority, European Insurance and Occupational Pensions Authority, and European Securities and Markets Authority), the Deposit Guarantee Scheme Directive, the review of the Capital Requirement Directives, the Directive on Alternative Investment Fund Managers and the Regulation on European Market Infrastructure.

Electronic communication, audiovisual services, information society and data privacy

18. Eleven new legal acts were incorporated in the field of electronic communication, audiovisual services, information society and data privacy.

19. Discussions continued on the incorporation of the Telecom Package, in particular on the level of EEA EFTA participation in the Body of European Regulators for Electronic Communications (BEREC), which entered into force in the EU in January 2010.

20. A draft JCD on the incorporation of the Data Retention Directive is pending since July 2011 for the agreement among the EEA EFTA States before being submitted to the Joint Committee for adoption. The deadline for the transposition of the Directive in the EU was in September 2007, with the possibility to postpone the application of the provisions relating to internet access, internet telephony and internet email until March 2009.

Postal services

21. Norway lifted its reservation with respect to the incorporation of the Third Postal Services Directive into the EEA Agreement. However, the debate on this issue was still on-going in the Icelandic parliament.

Transport

22. In the field of transport, 59 legal acts were incorporated, including the Single European Sky package II, the directive on reporting formalities for ships arriving in and/or departing from ports and the Decision on the Electronic Toll Services.

23. The second regulatory package on the Single European Sky (SES II) was discussed during the year and then incorporated into the EEA Agreement in December. The relevant draft JCD however did not enter into force due to its alleged linkage with the JCD 228/2013 on European aviation system, which was put on hold due to constitutional requirements. Several regulations concerning aviation security and safety were incorporated, as well as several regulations concerning rail interoperability and driving licences

FREE MOVEMENT OF PERSONS

24. A total of four acts were incorporated into the EEA Agreement under Subcommittee III, three of which relate to social security, and one concerning the European Job Mobility Platform EURES.

HORIZONTAL AND FLANKING POLICIES

25. In the field of horizontal and flanking policies, the EEA Joint Committee incorporated 39 acts into the EEA Agreement in the areas of environment and statistics.

Budgetary matters

26. The 2013 proportionality factor was 2.80% compared to 2.60% in 2012. Through the budgetary procedure, it was agreed that 33 EEA EFTA national experts would be seconded to the various directorates within the European Commission that deal with the joint EU programmes and activities. Furthermore, efforts were made to coordinate the participation of the EEA EFTA States in the new programmes established under the Multiannual Financial Framework 2014 – 2020

Environment

27. In the field of environment, 23 legal acts were incorporated, including the Timber Regulation, the postponement by one year of the inclusion of international aviation into the scope of the EU Emissions Trading Scheme, and a number of Decisions related to the EU Ecolabel.

28. With respect to the participation of the EEA EFTA States in the EU's ETS, the EU acknowledged that the EEA EFTA States could auction their share of emission allowances on the Common Auction Platform as foreseen in the JCD incorporating the Auctioning Regulation.

29. Discussions on the possible incorporation of the Marine Strategy Framework Directive into the EEA Agreement did not lead to a conclusion by the end of 2013.

Statistics

30. Sixteen acts were incorporated in the field of statistics. The EFTA Working Group of Heads of National Statistical Offices ensured full participation of the EEA EFTA National Statistical Institutes in the new high-level European Statistical Forum, which brings together members of the European Statistical System (ESS) with members of the European System of Central Banks to ensure the exchange of information, discuss priority setting and advise the two Systems on coordination of the work-programmes, future challenges for European statistics, strategic visions and priority issues for cooperation.