

How EU law becomes EEA law

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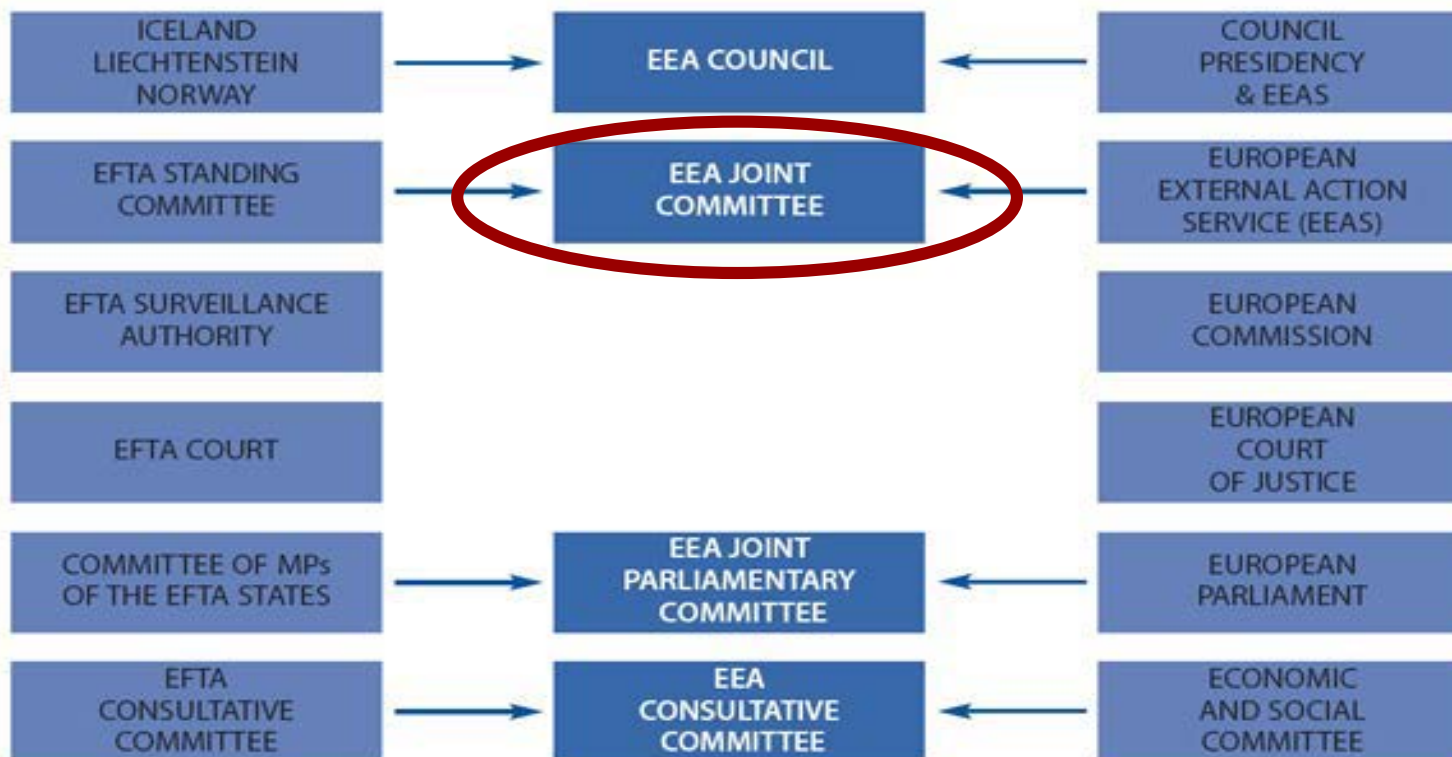
What is the EEA Agreement?

- **Main Part, Annexes and Protocols**
 - All integral part of the EEA Agreement
 - Specific decision-making procedures, dispute settlement mechanisms etc.
 - Substantive provisions relating to the four freedoms
 - Rules on competition and state aid
- **Extends internal market to EEA EFTA States**
 - Common rules (IM) and equal conditions of competition
- **Basis for wider cooperation with the EU**



Institutional setup

The Two-Pillar EEA Structure



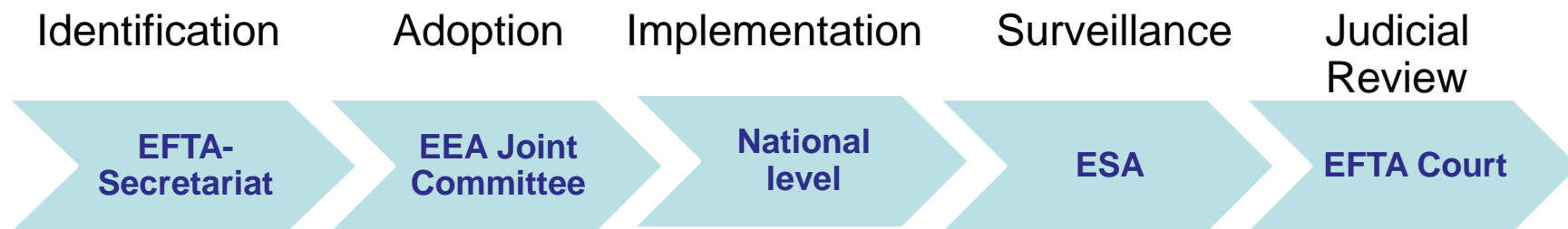
This diagram illustrates the management of the EEA Agreement. The left pillar shows the EFTA States and their institutions, while the right pillar shows the EU side. The joint EEA bodies are in the middle.

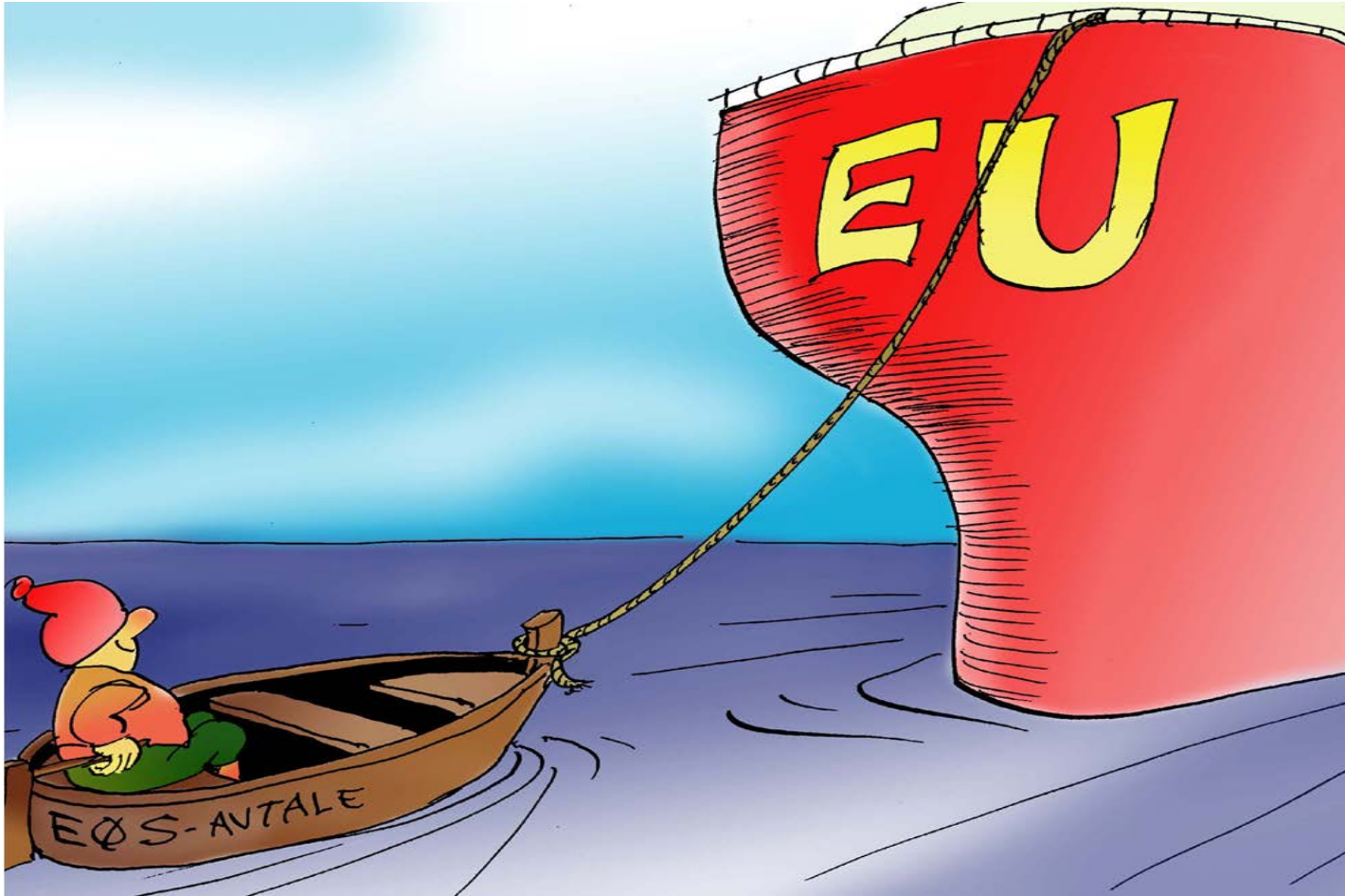
Fundamental principles

- The principle of homogeneity
 - EEA rules should be implemented, interpreted and applied uniformly throughout the EEA
- **Dynamic in nature**
 - New internal market legislation is continuously incorporated into the EEA Agreement
- **Consensus-based**
 - Incorporation of new acts into the EEA Agreement is decided unanimously by the EEA Joint Committee



From EU law to EEA law...





EEA decision shaping

European Commission drafts new legislation

COM shall seek advise from the EFTA States and the EU Member States in the same way – Art. 99 EEA

**EP and MS
discuss
EP/Council acts**

*EFTA-EU exchange
of views – Art. 99 EEA*

**Experts
discuss
delegated acts**

*EFTA participation
Art.100 EEA*

**MS experts
discuss
implementing acts**

*EFTA participation
Art. 100 EEA*

EU act published in the Official Journal of the EU

Footnote-marking for EEA relevant acts (not legally binding)



EU adopts new legislation...

Official Journal

of the European Union



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[Complete edition](#)

English edition

Legislation

Contents

I Acts adopted under the EC Treaty/Euratom Treaty whose publication is obligatory

REGULATIONS

- | | |
|--|--------------------|
| * Regulation (EC) No 1005/2009 of the European Parliament and of the Council of 16 September 2009 on substances that deplete the ozone layer ⁽¹⁾ | 1 |
| * Regulation (EC) No 1006/2009 of the European Parliament and of the Council of 16 September 2009 amending Regulation (EC) No 808/2004 concerning Community statistics on the information society ⁽¹⁾ | 31 |
| * Regulation (EC) No 1007/2009 of the European Parliament and of the Council of 16 September 2009 on trade in seal products ⁽¹⁾ | 36 |

(1) Text with EEA relevance

EN

Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period. The titles of all other acts are printed in bold type and preceded by an asterisk.



EEA decision-making/taking

- EFTA Sec: Identifies acts/ preliminary assessment
 - Proposes procedure: Fast track or Standard
- EFTA experts (Working Groups) discuss:
 - EEA relevance, need for **adaptations** etc.
- EFTA Sec: Drafts a EEA Joint Committee Decision (JCD)
- Draft JCD approved by the EFTA States

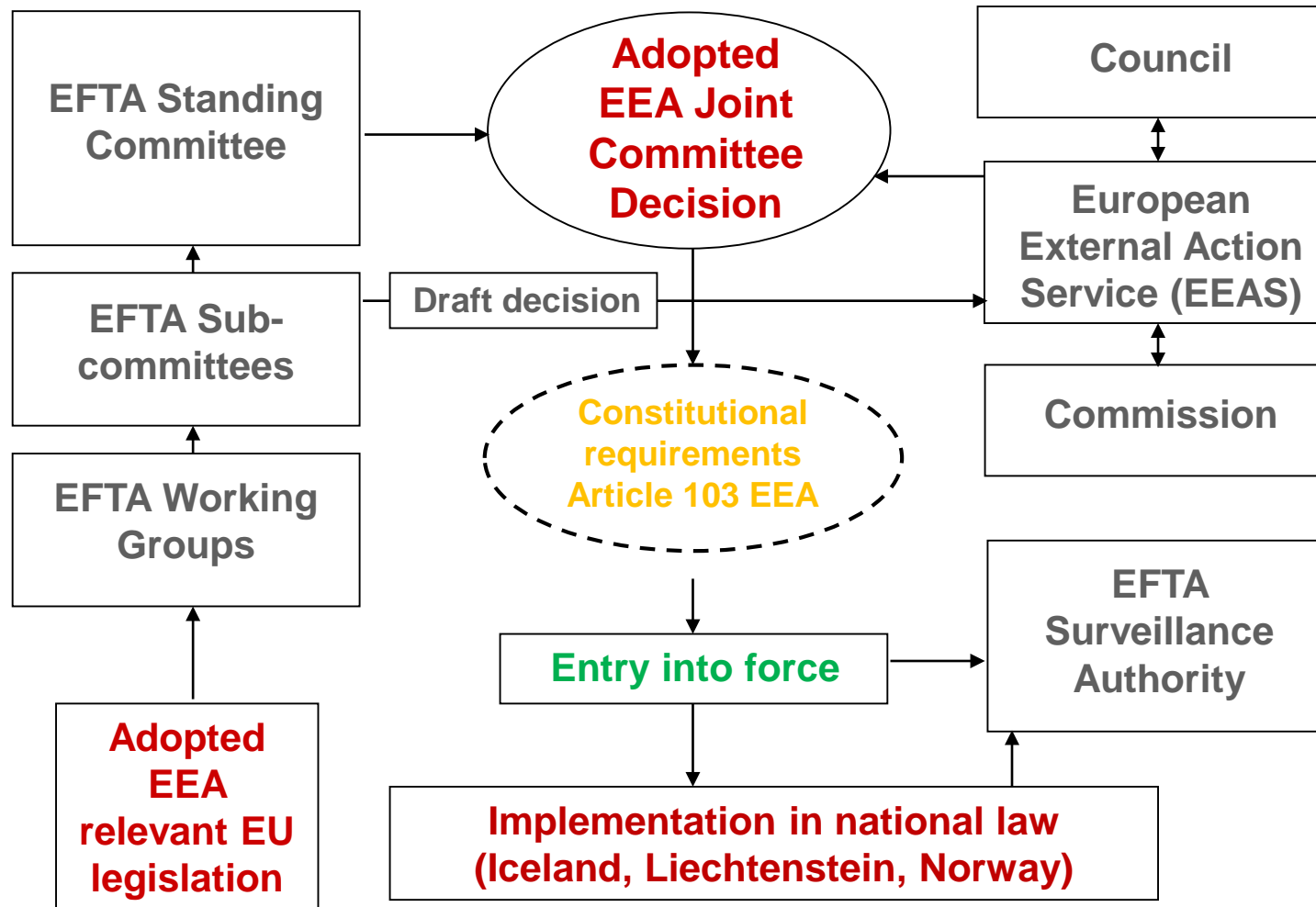


EEA decision-making/taking (cont'd)

- After approval by EU side – JCD on “long list”
 - 2 weeks before meeting/procedures in EFTA States
- Adoption of JCD by EEA JC
- Entry into force of JCD
 - Constitutional requirements – art. 103 EEA?
 - National implementation
- Publication in OJ



EEA decision-making/taking



Challenges for the EEA

- Institutional issues – EU agencies
 - Binding decision-making powers
- Scope of EU Treaties vs EEA Agreement
 - Third country issues
- Backlog
 - Difference between applicable law in the Union and the EEA EFTA States



Institutional issues

- Agencies not foreseen in the EEA Agmt.
- Constitutional challenges
- Two-pillar system of EEA Agreement
 - Participation rights?
 - Cooperation mechanisms?
 - Dispute-settlement mechanisms?
 - Binding decisions?
 - Access to court?
- Solutions set out in adaptation texts!

How to deal with?



Scope: EU Treaties vs EEA Agmt.

- EEA Agmt. does not cover:
 - Customs union and trade policy, common agriculture and fisheries policy, economic and monetary union, tax policy, common foreign and security policy, justice and home affairs
- EEA Agmt. modelled upon pre-Maastricht framework...
- Assessing EEA relevance Post-Lisbon?



Backlog – acts awaiting incorporation

- Applicability of acts in EU and EEA?
 - Art. 102(1) EEA aims at simultaneous application
 - Art. 103 EEA – constitutional requirements (6 months)
 - **No direct effect of EEA law** – implementation required
 - Art. 7 EEA (case E-9/97)
- Backlog inherent in the system?
- Shift from directives to regulations
- EFTA/EU procedures



Thank you for your attention!

