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Presentation on decision shaping and on EEA EFTA Comments

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- What is decision shaping seen from the EEA EFTA side?
- Broadly speaking, decision shaping seen from the EEA EFTA side, can be seen as the process of contributing to the development of EU legislation and policy/strategy up until they are formally adopted, and furthermore to the management of EU programmes and to the work of EU-agencies.
- Quote from the EFTA Bulletin on decision shaping in the EEA, published in 2009 and available on www.efta.int :
“The term ‘decision shaping’ does not appear anywhere in the EEA Agreement, nor is it found in any standard dictionary or encyclopaedia. An internet search (in 2009) yielded almost exclusively articles related to the EEA. In short, it seems that decision shaping is a sui generis EEA term.”
- A google search on “decision shaping” carried out yesterday gave as the top result a link to EFTA, and the subsequent results all regarded “decision making”.
- The starting point for this presentation: The EEA EFTA States take on board EU legislation through the EEA Agreement, but the Agreement does not grant us voting (decision making) rights on the EU side.



- However, an important feature of the EEA Agreement is that it makes it possible for us to participate in EEA relevant Commission Expert Groups and Committees, and thereby the possibility to express our views alongside the EU member states.
- Many many experts from our capitals – ministries and authorities – participate in the work and the meetings of these WGs and EGs, where the Commission consults member states.
- The EEA Agreements says nothing about participating in the work of the Council and the EP. So, once the Commission has adopted an EEA relevant legislative proposal, there is no institutional setup for our participation in the discussions on the EU side on that proposal. I will come back to how we still try to contribute to those discussions through EEA EFTA Comments.
- A challenge we have met under the EEA Agreement is the growing number of EU agencies and how to integrate the EEA EFTA States in the work of these agencies. The EEA EFTA States currently participates fully in the work of 23 EU Agencies – 17 regulatory and 6 executive agencies – and in the governance of these agencies, but again, without the right to vote.
 - In other words, we contribute to the shaping of decisions within the agencies. But, as the Commission tasks agencies with the preparation of various reports which are meant to feed into its work, we, through the agencies, also contribute to shaping upcoming Commission decisions/proposals.
- The Commission may include one or several EEA EFTA States in studies, another way of contributing to shaping decision in the Commission.



- The EEA EFTA States participate in many EU programmes, yet another way of interacting with the EU side.
- As we have no access to meetings in the Council, we have inter alia to rely on contacts with individual EU member states. It is challenging, as the Council is not a very open institution.
- We have no MEPs, but as EP Committee meeting are open and reports etc are made publicly available, it is a lot easier to follow progress in the EP. Again, individual contacts are important.
- Speaking about the EP, you will after me hear more from my colleague Christophe Zufferey regarding decision shaping through the EFTA Advisory bodies, which includes parliamentarians, the social partners, and the local/regional level.

TO CONCLUDE THIS PART OF MY PRESENTATION:

- The EEA EFTA states' contribution to shaping decisions on the EU side is a collective effort involving ministers, experts in ministries and authorities, our Missions to the EU, EEA EFTA WGs, the EFTA Secretariat, and for the rest I leave it to Christophe.
- Decision shaping by the EEA EFTA States in an EEA context is targeted not only towards the Commission and EU programs as foreseen in the EEA Agreement, but also the Council/EU member states and the EP, as what is finally adopted in the EU never is exactly the same as what was proposed by the Commission.



- Then to the next part of my presentation: EEA EFTA Comments
- They are an important tool for the EEA EFTA States, but not only for decision shaping. I will come back to that.
- What is an EEA EFTA Comment (another concept which is not found in the EEA Agreement)?
- It is one of the ways in which the EEA EFTA States participate in shaping EU policies, programmes and legislation by agreeing on common position papers, called EEA EFTA Comments.
- They are actually the only way the governments of the EEA EFTA States jointly contribute in writing to shaping decisions on the EU side.
- EEA EFTA Comments may be issued as input to public consultations organised by the Commission when preparing a legislative proposal, a policy or a strategy, or after the adoption by the Commission of a legislative proposal, throughout the co-decision procedures on the EU side.
- They are therefore submitted to the relevant parts of the European Commission, the relevant MEPs in European Parliament Committees, as well as to the Presidency of the European Council for circulation to the relevant Council Working Party.
- The EEA EFTA working groups and expert groups, assisted by the EFTA Secretariat, draft the EEA EFTA Comments. The Secretariat processes the draft Comments throughout the drafting and decision-making process.



- The EEA EFTA Comments are followed up with discussions between representative from the EU institutions and EEA EFTA Member States in the EFTA Working Groups, and/or in bilateral meetings.

TO CONCLUDE THIS PART OF MY PRESENTATION:

- EEA EFTA Comments are not only an important tool for decision shaping.
 - They also contribute to the visibility and awareness of the EEA Agreement on the EU side.
 - And they are a useful tool in our contacts and discussions with the EU side; for the EEA EFTA WGs and EGs, our Missions, our capitals and the EFTA Secretariat.
- Are we heard on the EU side?
- Extremely difficult to measure. But one of our present trainees, Ole Johan Karlsen, wrote his master's theses on EEA EFTA Comments. He found that in Comments where we proposed something different from what the Commission proposed in a specific provision of a proposal, the end result adopted in the EU was like the EEA EFTA States proposed or partly as they proposed, regarding close to 60 % of the examples he identified.
- But as we are not alone in Brussels, we can of course not take all the credits ourselves.



TO CONCLUDE MY PRESENTATION:

- Around 250 EEA EFTA comments have been issued over 27 years with the EEA Agreement. All EEA EFTA Comments can be found on www.efta.int . Most recent examples related to Commission proposals on: The Digital Markets Act and the Digital Services Act, on CO2 emissions from cars and vans, and on anti-money laundering and countering the financing of terrorism.
- Our impression is that “EFTA” is regarded as a good trademark in Brussels, and that our EEA EFTA Comments often are welcomed into the debate on the EU side.
- We are not regarded as “lobbyist”, but as what we are, an intergovernmental organisation, representing states that actually take over EU legislation through the EEA Agreement.
- So, decision shaping under the EEA Agreement, through EFTA, of the different reasons I have mentioned, through the different ways I have explained, in sum is worth the efforts it takes.
- But we could probably do more when it comes to timing of Comments and following up Comments in contacts with the EU-side, but we often lack the resources to do what we know we should do.