

DECISION OF THE EEA JOINT COMMITTEE
No 67/2021

of 5 February 2021

amending Annex XIV (Competition) to the EEA Agreement

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area (“the EEA Agreement”), and in particular Article 98 thereof,

Whereas:

- (1) Commission Notice regarding restrictions ancillary to concentrations¹ has been replaced by Commission Notice on restrictions directly related and necessary to concentrations² and consequently the reference thereto should be deleted from the EEA Agreement.
- (2) Commission Notice regarding the concentrative and cooperative operations under Council Regulation (EEC) No 4064/89 of 21 December 1989 on the control of concentrations between undertakings³ is no longer applicable as the reference to Council Regulation (EEC) No 4064/89 was deleted from the EEA Agreement by Decision of the EEA Joint Committee No 78/2004 of 8 June 2004⁴ and consequently the reference thereto should be deleted from the EEA Agreement.
- (3) Commission Notice concerning Commission Regulations (EEC) No 1983/83 and (EEC) No 1984/83 of 22 June 1983 on the application of Article 85 (3) of the Treaty to categories of exclusive distribution and exclusive purchasing agreements⁵ is no longer applicable as Commission Regulations (EEC) No 1983/83⁶ and (EEC) No 1984/83⁷ are no longer in force and consequently the reference thereto should be deleted from the EEA Agreement.
- (4) Commission Notice concerning Regulation (EEC) No 123/85 of 12 December 1984 on the application of Article 85 (3) of the Treaty to certain categories of motor-vehicle distribution and servicing agreements⁸ is no longer applicable as Regulation (EEC) No 123/85⁹ is no longer in force and consequently the reference thereto should be deleted from the EEA Agreement.
- (5) Commission Notice on exclusive dealing contracts with commercial agents¹⁰ is no longer applicable as it has been replaced by paragraphs 12 to 20 of Commission Notice

¹ OJ C 203, 14.8.1990, p. 5.

² OJ C 188, 4.7.2001, p. 5.

³ OJ C 203, 14.8.1990, p. 10.

⁴ OJ L 219, 19.6.2004, p. 24.

⁵ OJ C 101, 13.4.1984, p. 2.

⁶ OJ L 173, 30.6.1983, p. 1.

⁷ OJ L 173, 30.6.1983, p. 5.

⁸ OJ C 17, 18.1.1985, p. 4.

⁹ OJ L 15, 18.1.1985, p. 16.

¹⁰ OJ P 139, 24.12.1962, p. 2921/62.

- Guidelines on Vertical Restraints¹¹ and consequently the reference thereto should be deleted from the EEA Agreement.
- (6) Commission Notice concerning agreements, decisions and concerted practices in the field of cooperation between enterprises¹² is no longer applicable as it has been replaced by Commission Notice concerning the assessment of cooperative joint ventures pursuant to Article 85 of the EEC Treaty¹³ and consequently the reference thereto should be deleted from the EEA Agreement.
- (7) Commission Notice concerning imports into the Community of Japanese goods falling within the scope of the Rome Treaty is no longer applicable as it was concerned with notifications under Council Regulation No 17 of 6 February 1962, First Regulation implementing Articles 85 and 86 of the Treaty¹⁴ which has been repealed by Regulation 1/2003¹⁵ and consequently the reference thereto should be deleted from the EEA Agreement.
- (8) Commission Notice on agreements of minor importance which do not fall under Article 85 (1) of the Treaty establishing the European Economic Community¹⁶ is no longer applicable as it was replaced by Commission Notice on agreements of minor importance which do not appreciably restrict competition under Article 81(1) of the Treaty establishing the European Community (*de minimis*)¹⁷ and consequently the reference thereto should be deleted from the EEA Agreement.
- (9) Annex XIV to the EEA Agreement should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Annex XIV to the EEA Agreement shall be amended as follows:

1. The following footnote is added after the text ‘In the application of Articles 53 to 60 of the Agreement and the provisions referred to in this Annex, the EC Commission and the EFTA Surveillance Authority shall take due account of the principles and rules contained in the following acts:’ under the heading ‘*ACTS OF WHICH THE EC COMMISSION AND THE EFTA SURVEILLANCE AUTHORITY SHALL TAKE DUE ACCOUNT*’:

‘In accordance with Section General Paragraph II, corresponding Acts to the Acts adopted by the EC Commission after 31 July 1991 to complement or replace the Acts adopted before 31 July 1991 that were initially listed under this heading are adopted by the EFTA Surveillance Authority in order to maintain equal conditions of competition but are not included in this Annex.’
2. The texts of points 16 (Commission Notice regarding restrictions ancillary to concentrations), 17 (Commission Notice regarding the concentrative and co-operative operations under Council Regulation (EEC) No 4064/89 of 21 December 1989 on the control of concentrations between undertakings), 18 (Commission Notice concerning Commission Regulations (EEC) No 1983/83 and (EEC) No 1984/83 of 22 June 1983

¹¹ OJ C 291, 13.10.2000, p. 1.

¹² OJ C 75, 29.7.1968, p. 3.

¹³ OJ C 43, 16.2.1993, p. 2.

¹⁴ OJ P 13, 21.2.1962, p. 204.

¹⁵ OJ L 1, 4.1.2003, p. 1.

¹⁶ OJ C 231, 12.9.1986, p. 2.

¹⁷ OJ C 368, 22.12.2001, p. 13.

on the application of Article 85 (3) of the Treaty to categories of exclusive distribution and exclusive purchasing agreements), 19 (Commission Notice concerning Regulation (EEC) No 123/85 of 12 December 1984 on the application of Article 85 (3) of the Treaty to certain categories of motor vehicle distribution and servicing agreements), 20 (Commission Notice on exclusive dealing contracts with commercial agents), 21 (Commission Notice concerning agreements, decisions and concerted practices in the field of cooperation between enterprises), 22 (Commission Notice concerning imports into the Community of Japanese goods falling within the scope of the Rome Treaty), and 24 (Commission Notice on agreements of minor importance which do not fall under Article 85 (1) of the Treaty establishing the European Economic Community) under the heading ‘ACTS OF WHICH THE EC COMMISSION AND THE EFTA SURVEILLANCE AUTHORITY SHALL TAKE DUE ACCOUNT’ are deleted.

3. The last sentence of Paragraph II under the heading ‘*General*’ under the heading ‘ACTS OF WHICH THE EC COMMISSION AND THE EFTA SURVEILLANCE AUTHORITY SHALL TAKE DUE ACCOUNT’ is replaced by the following sentence:

‘In the application of Articles 53 to 60 of the Agreement and the provisions referred to in this Annex, the EC Commission and the EFTA Surveillance Authority shall take account of the principles and rules contained in these acts.’

Article 2

This Decision shall enter into force on 6 February 2021, provided that all the notifications under Article 103(1) of the EEA Agreement have been made*.

Article 3

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

Done at Brussels, 5 February 2021.

*For the EEA Joint Committee
The President*

Clara Ganslandt

*The Secretaries
To the EEA Joint Committee*

Hege M. Hoff

Mikołaj Karłowski

* No constitutional requirements indicated.