

**AGREEMENT AMENDING PROTOCOL 3 TO THE AGREEMENT  
BETWEEN THE EFTA STATES ON THE ESTABLISHMENT OF A  
SURVEILLANCE AUTHORITY AND A COURT OF JUSTICE**

THE REPUBLIC OF ICELAND,  
THE PRINCIPALITY OF LIECHTENSTEIN AND  
THE KINGDOM OF NORWAY,

Having regard to the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice, as adjusted by the Protocol Adjusting the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice, hereinafter referred to as the Surveillance and Court Agreement, and in particular Article 49 thereof,

In agreement with the EFTA Surveillance Authority,

Having regard to the Decision of the EEA Joint Committee No 20/98 of 6 March 1998 amending Annex XV (State Aid) to the EEA Agreement,

Whereas, procedures should be established to be followed by the EFTA Surveillance Authority which are as close as possible to the procedures provided for in Article 6 of Commission Decision No. 2496/96/ECSC of 18 December 1996 establishing Community rules for State aid to the steel industry,

Whereas, therefore, Protocol 3 to the Surveillance and Court Agreement should be amended,

HAVE AGREED AS FOLLOWS:

Article 1

Article 3 of Protocol 3 on the functions and powers of the EFTA Surveillance Authority in the field of State Aid shall be replaced by the following:

« Article 3

1. In order to assess the compatibility with the functioning of the EEA Agreement of state aid measures falling under the act referred to in point 1a of Annex XV to the EEA Agreement, the rules laid down in Article 1 of this Protocol shall be further specified, as follows:
2. The notification of plans to grant aid under Article 4 of the act referred to in paragraph 1, in which the EFTA State paying the aid is not identical to that in whose territory the closure would take place, shall be submitted to the EFTA Surveillance Authority jointly by both EFTA States.

The notification of aid plans falling under the act referred to in paragraph 1, must be lodged with the EFTA Surveillance Authority at the latest by 31 December 2001.

3. The EFTA Surveillance Authority shall be informed, in sufficient time for it to submit its comments, and by 31 December 2001 at the latest, of any plans for transfers of State resources by EFTA States, regional or local authorities or other bodies to steel undertakings in the form of acquisition of shareholdings, provisions of capital, loan guaranties, indemnities or similar financing.

The EFTA Surveillance Authority shall determine whether the financial transfers involve aid elements within the meaning of Article 1(2) of the act referred to in paragraph 1 and, if so, shall examine whether they are compatible with the functioning of the EEA Agreement under the provisions of Articles 2 to 5 of the aforementioned act.

4. The EFTA Surveillance Authority shall seek the views of the EFTA States on plans for closure aid and on other major aid proposals notified to it before adopting a position on them. It shall inform the EFTA States of the decisions it has adopted on aid proposals, specifying the form and volume of the aid.
5. The planned measures falling within paragraph 2 or 3 may be put into effect only with the approval of and subject to any conditions laid down by the EFTA Surveillance Authority.

The EFTA Surveillance Authority may, after giving the EFTA State concerned the opportunity to submit its comments, adopt a decision under Article 1(2), subparagraph 1 of this Protocol requiring the EFTA State to suspend the disbursement of any financial means until approval is given by the EFTA Surveillance Authority. Article 1(2) of this Protocol shall continue to apply in the event of an EFTA State's failing to comply with that decision.

The EFTA Surveillance Authority may, after giving the EFTA State concerned the opportunity to submit its comments, adopt a decision under Article 1(2), subparagraph 1 of this Protocol requiring the EFTA State to recover provisionally any financial means disbursed in breach of the first subparagraph of this paragraph and Article 61(1) of the EEA Agreement. Repayment shall be made in accordance with the procedures and provisions of domestic law of the EFTA State concerned, together with interest at the rate used as reference rate in the assessment of regional aid schemes running from the date of disbursement. Article 1(2) of this Protocol shall continue to apply in the event of an EFTA State's failing to comply with that decision.

6. If the EFTA Surveillance Authority considers that a certain financial measure may

represent State aid within the meaning of Article 1 of the act referred to in paragraph 1 or doubts whether a certain aid is compatible with the provisions of the act referred to in paragraph 1, it shall inform the EFTA State concerned and give notice to the interested parties and other EFTA States to submit their comments. If, after having received the comments and after having given the EFTA State concerned the opportunity to respond, the EFTA Surveillance Authority finds that the measure in question is an aid incompatible with the provisions of the act referred to in paragraph 1, it shall take a decision not later than three months after receiving the information needed to assess the proposed measure. Article 1(2) of this Protocol shall apply in the event of an EFTA State's failing to comply with that decision.

7. If the EFTA Surveillance Authority fails to initiate the procedure provided for in paragraph 6, or otherwise to make its position known within two months of receiving full notification of a proposal, the planned measures may be put into effect provided that the EFTA State first informs the EFTA Surveillance Authority of its intention to do so. Where the EFTA Surveillance Authority seeks the views of EFTA States under paragraph 4, the abovementioned period shall be three months. »

#### Article 2

1. This Agreement, drawn up in a single copy and authentic in the English language, shall be approved by the EFTA States in accordance with their respective constitutional requirements.

Before the end of a period of six months from its entry into force, this Agreement shall be drawn up and authenticated in German, Icelandic and Norwegian.

2. This Agreement shall be deposited with the Government of Norway which shall notify all other EFTA States.

The instruments of acceptance shall be deposited with the Government of Norway which shall notify all other EFTA States.

3. This Agreement shall enter into force on the day the Decision of the EEA Joint Committee No 20/98 of 6 March 1998 amending Annex XV to the EEA Agreement enters into force or on the day all instruments of acceptance have been deposited by the EFTA States, whichever day is the later.

IN WITNESS WHEREOF the undersigned plenipotentiaries, being duly authorised thereto, have signed this Agreement.

Done at Brussels, this 6 March 1998.