

**AGREEMENT AMENDING PROTOCOL 4 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
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 Decision No 44/2000 of 12 May of the EEA Joint Committee amending Protocol 21 to the EEA Agreement on the implementation of competition rules applicable to undertakings,

Whereas, therefore, Protocol 4 to the Surveillance and Court Agreement should be amended,

HAVE AGREED AS FOLLOWS:

Article 1

Article 4(2) of Chapter II of Protocol 4 to the Surveillance and Court Agreement shall be replaced by the following:

- '2. Paragraph 1 shall not apply to agreements, decisions and concerted practices where:
- (1) the only parties thereto are undertakings from one EC Member State or from one EFTA State and the agreements, decisions or practices do not relate either to imports or to exports between Contracting Parties;
 - (2)
 - (a) the agreements or concerted practices are entered into by two or more undertakings, each operating, for the purposes of the agreement, at a different level of the production or distribution chain, and relate to the conditions under

which the parties may purchase, sell or resell certain goods or services;

(b) not more than two undertakings are party thereto, and the agreements only impose restrictions on the exercise of the rights of the assignee or user of industrial property rights, in particular patents, utility models, designs or trade marks, or of the person entitled under a contract to the assignment, or grant, of the right to use a method of manufacture or knowledge relating to the use and to the application of industrial processes;

(3) they have as their sole object:

(a) the development or uniform application of standards or types; or

(b) joint research and development;

(c) specialization in the manufacture of products, including agreements necessary for achieving this,

- where the products which are the subject of specialization do not, in a substantial part of the territory covered by the Agreement, represent more than 15% of the volume of business done in identical products or those considered by consumers to be similar by reason of their characteristics, price and use, and

- where the total annual turnover of the participating undertakings does not exceed 200 million euro.

These agreements, decisions and practices may be notified to the competent surveillance authority pursuant to Article 56, Protocol 23 and the rules referred to in Articles 1 to 3 of Protocol 21 to the EEA Agreement and the rules referred to in Protocol 23 to the EEA Agreement, as well as in Chapters III, VI, IX, XI, XII and XV.'

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 instrument 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 Decision No 44/2000 of 12 May of the EEA Joint Committee amending Protocol 21 to the EEA Agreement, on the implementation of competition rules applicable to undertakings, 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, 11 May 2000.