

# Introduction to the decision-making process

Finnur Þór Birgisson

Head of EEA Legal Coordination  
EFTA Secretariat



# EEA and homogeneity

- > **Homogeneity** is the main principle of the EEA Agreement
  - > EEA is based on the same rules
  - > These rules should be uniformly interpreted and applied
- > The different dimensions of homogeneity:
  - > Judicial dimension
  - > Surveillance dimension
  - > Dynamic dimension
    - > Art 102 EEA



# EEA relevance

- > The EEA unites the three EEA EFTA States and the EU into an internal market based on the free movement of:
  - > Goods
  - > Services
  - > Capital
  - > Persons
- > EEA is focused on the internal market
  - > EU policies in other areas (eg agriculture, common trade policy etc) are outside the scope of the EEA
- > Only EU legislation that falls under this scope should be incorporated
  - > EEA relevance



# Assessments of acts

- > The EFTA Secretariat monitors all EU legal acts
- > Once EU adopts legal act, the Secretariat conducts a preliminary assessment of the act
- > Key questions:
  - > Is the act EEA relevant?
  - > Does it raise horizontal challenges?
  - > Are adaptations needed?
- > Assessment by the EEA EFTA States
  - > Standard Procedure
  - > Fast track procedure



# Legal drafting

- > When assessment of acts has concluded, preparation of incorporation can begin
- > Legal acts are incorporated with decisions of the EEA Joint Committee
- > The EFTA Secretariat is charged with preparing drafts of Joint Committee decisions
  - > Drafts then approved by the EEA EFTA States
  - > Submitted to the EU side which launches interservice consultations
- > Includes possible adaptations to the incorporated legal acts
  - > Technical vs. substantive adaptations



## Formal decision - making

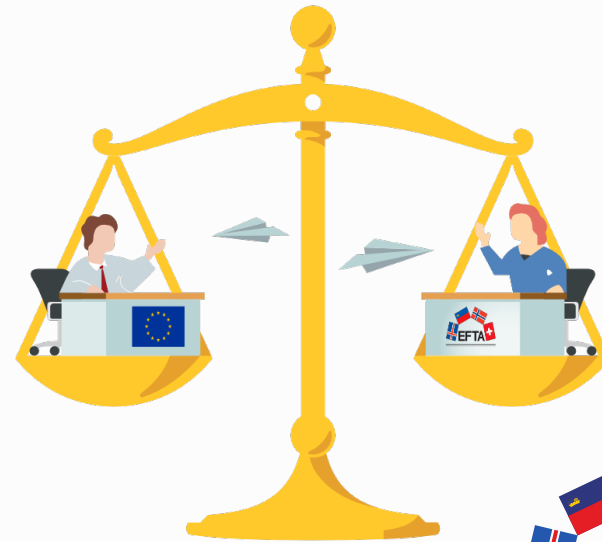


- > EFTA States speak with one voice
  - > EFTA Standing Committee coordinates the position of the EEA EFTA States
  - > Five Subcommittees
  - > EFTA Working Groups and Expert Groups
- > Joint Committee takes decision by consensus
  - > The EFTA Secretariat and the Commission prepare a list of decision that are ready for adaptation (long list)
- > The EEA EFTA State can make **constitutional requirements** to decisions
  - > Decision will not enter into force before they are lifted



# Adaptations

- > EU legal acts are incorporated by means of adding references to them in the relevant annexes of the EEA Agreement
- > These legal acts then have to be read in view of adjustments made to them by virtue of provisions of the EEA Agreement.
- > These adjustments are referred to as *adaptations*
  - > Horizontal – Protocol 1
  - > Sectoral – individual annexes
  - > Specific – apply to individual acts



## Further resources

> Webtool on how EU law becomes EEA law

<https://eealaw.efta.int/>

> How to read EU acts incorporated into the EEA Agreement

<https://www.efta.int/EEA/How-read-EU-acts-incorporated-EEA-Agreement-524556>

