

EUROPEAN ECONOMIC AREA

JOINT COMMITTEE

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1 Annex

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ON THE FUNCTIONING OF THE EEA AGREEMENT (ARTICLE 94(4))

I General overview

The EEA Joint Committee met 11 times in 1999, and adopted 192 decisions (compared to 122 decisions the previous year) incorporating 562 acts, of which 291 were veterinary acts in the revised Annex I. The Committee held consultations on a number of important issues.

This report makes a general assessment of the work of the EEA Joint Committee in 1999, looking first at decision-making procedures and then at the decision shaping process. Following this overview is a sector-by-sector review of activities under the EEA Joint Committee with particular reference to new legislation incorporated into the EEA Agreement.

Based on previous engagements by the EU to keep the EEA EFTA States fully and regularly informed of the enlargement process, the Commission Task Force on Accession Negotiations provided three comprehensive briefings to the Joint Committee in the course of 1999. In addition, a large number of sector specific briefings were also provided in the Joint Committee substructure on the screening and negotiation processes in the following areas:

- competition policy
- fisheries
- statistics
- small and medium sized enterprises
- science, research and development
- education and training
- telecommunications and information technologies
- culture and audio-visual policy
- consumer and health protection

Having noted that the Amsterdam Treaty, inter alia, integrates environmental considerations into all Community policies and activities, the EEA Council meeting in the autumn noted with satisfaction that an informal meeting of EU and EEA EFTA Ministers of Environment took place on 1 November 1999. The EEA Council agreed to consider possible meetings at political level also in other areas.

Several rounds of consultations among all interested parties were held with a view to reach agreement on a renewed contribution of the EEA EFTA States towards reduction of social and economic disparities in Europe. Substantial progress was made towards finding generally acceptable solutions on the operational modalities of the new financial arrangement.

Decision making

An analysis was conducted on both the EFTA and the EU sides during the second half of 1999 which led to the introduction of a number of measures to enhance and further accelerate the process of integration of EU legislation into the Agreement. The number of decisions adopted by the Joint Committee in 1999 was approximately 60 per cent higher than in the year before. An average of 17 decisions (compared to 11 in 1998 and nine in 1997) was adopted per working month, representing an average of about 24 legal acts, (compared to 16 in 1998 and 13 in 1997) incorporated into the Agreement. This figure does not include Decision No 76/1999 that incorporated 243 acts in the veterinary field, the so-called "Additional package".

Disregarding the veterinary field, the accelerated rate of decision-making has led to a significant reduction in the backlog of outstanding acquis waiting to be integrated into the Agreement. The pace of integration has increased and the time the average legal act spends in the EEA pipeline has been shortened. Moreover, during 1999, the number of acts integrated into the Agreement surpassed the amount of acts adopted on the EU side, resulting in an enhancement of the homogeneity of the Agreement. Most of the acts that have now been in the machinery for a long time are there for a substantial reason, i.e. they are either problematic or complex, necessitating more time for consideration or for technical work. In the case of certain long outstanding legislative acts, the Commission has urged its EEA partners to put forward draft decisions so that joint consideration can be undertaken.

Late fulfilment of constitutional requirements in the EEA EFTA States has continued to pose a problem for the homogeneity of the EEA in areas concerned although the average age of decisions whose entry into force was pending fell towards the end of the year. The Joint Committee adopted at the beginning of 2000 a new practice of indicating in a footnote whether or not the entry into force is subject to fulfilment of constitutional requirements, in order to improve transparency.

The problem of delays in the publication of Joint Committee Decisions was subject to extensive discussions in the Joint Committee meetings. Recognising the problem of insufficient capacity for translation of acts into Icelandic and Norwegian, the EFTA side has substantially increased its resources in this field. It will, however, take some time to absorb the backlog that has developed. The Joint Committee will remain vigilant to ensure an improvement in this respect. An ad hoc Working Group, consisting of experts from both the Commission and the EFTA sides, is examining ways for enhancing transparency of EEA law through timely publication of Joint Committee Decisions.

The EFTA side has repeatedly expressed concern over their participation in new or renewed EU programmes, pending the establishment of the formal legal basis. EU programmes are often only adopted very close to their planned commencement, thus giving little time for the completion of Joint Committee procedures and constitutional procedures in the EEA EFTA States where necessary. The strict application by the Commission of the Community's internal rules resulted at the end of the year in the exclusion of EFTA representatives from informal participation in the management committee of the Fifth Framework Programme until the entry into force of the Joint Committee Decision on 30 June 1999. At the same time, the EEA EFTA States made provisional financial contributions early in 1999 in line with Protocol 32, calculated according to the proportionality factor as 1.87 per cent of the relevant Community budget.

In November, the EFTA side submitted a report to the Commission related to Protocol 9 (Trade in fish and other marine products) with a view to initiating further discussions in this area.

A list of Joint Committee Decisions adopted by the EEA Joint Committee in 1999 is attached at Annex.

Decision shaping

The EEA EFTA States continued actively to contribute written comments and opinions through the information and consultation procedures. The Joint Committee took note of the following EFTA Comments:

- Commission Consultation Paper on air transport and the environment
- Provisions regarding power from renewable energy in the internal market for electricity
- Commission proposal for a European Parliament and Council Directive combating late payment in commercial transactions
- Commission proposal on limits in dioxin content in feedingstuffs
- Commission White Paper on modernisation of the rules implementing Articles 81 and 82 of the EC Treaty (COM(1999) 101 final)
- Commission's public procurement legislative package (CC/99/67-CC/99/67bis)
- Commission Communication of 9 June 1999 (COM(1999) 263 final) on the single market and the environment
- Proposal for an EP and Council Directive on the posting of workers who are third-country nationals for the provision of cross-border services and the proposal for a Council Directive extending the freedom to provide cross-border services to third-country nationals established within the Community
- The Community framework for future action in the field of public health
- Commission Communication on a Common Transport Policy – Sustainable mobility: Perspectives for the future
- Commission White Paper on Fair payment for Infrastructure use: A phased approach to a common transport infrastructure charging framework in the EU

- Commission Communication to the European Parliament and the Council on the Strategy for Europe's Internal Market
- Commission Proposal for a European Parliament and Council Directive on certain legal aspects of electronic commerce in the internal market
- The Chemical Policy in the EU
- Council Resolution 1999/C221/01 on the involvement of Europe in a new generation of satellite navigation services – Galileo – Definition Phase
- Commission Communication on the development of short sea shipping in Europe

EFTA experts were also associated with the work of a wide range of EU committees during 1999.

It remains difficult to gauge objectively the effect of EFTA involvement in the EU decision shaping process. However, it seems clear that the EFTA side generally makes good use of the opportunities afforded under the Agreement to be informed and provide input on EEA relevant matters from inception to adoption by the EU.

Institutional co-operation under the EEA

The EEA Joint Parliamentary Committee (JPC) held two meetings in 1999, in Keflavik on 16 March and in Brussels on 6-7 December. As at previous meetings, the JPC held discussions with representatives of the EEA Council, the Joint Committee and the EFTA Surveillance Authority on the development of the Agreement and on progress regarding prior resolutions of the JPC. At the meeting in Brussels on 6-7 December, the President-in-office of the Joint Committee presented a response to additional JPC resolutions on the functioning of the Agreement in 1998, homogeneity in the EEA, consumer issues, enlargement and food safety.

The EEA Consultative Committee held its annual meeting in Brussels on 11 March 1999. The Committee adopted resolutions on topics related to the single market, employment and social policy, environment as well as enlargement, which were subsequently forwarded to the EEA Council. Discussions covered EMU and recent developments in the EEA. On the latter the President-in-office of the Joint Committee provided a presentation.

II Activities by substance area during 1999

Free Movement of Goods

- Technical regulations, standards, testing and certification

The Joint Committee adopted 71 decisions amending Annex II and Protocol 47, incorporating a total of 127 new acts into the Agreement. Most of the new acts were related to trade in foodstuffs, construction products, motor vehicles, information technology, and maximum residue limits of veterinary medicinal products in food. Annex II and Protocol 47 to the Agreement now contain more than 1 300 acts.

Over the year, experts from EEA EFTA States participated in more than one hundred committees, working groups and other bodies set up by the Commission in the field of technical barriers to trade.

- EMEA and medicinal product legislation

A Joint Committee Decision adopted in May 1999 laid down the conditions for EEA EFTA States' participation in the European Agency for Evaluation of Medicinal Products (EMEA). Entering into force on 1 January 2000, this decision allows EFTA experts to participate as observers in all Committees and Working Groups under the EMEA, including the Management Board. The EEA EFTA States will also contribute financially in line with Protocol 32, calculated according to the proportionality factor as 1.87 per cent of the relevant Community budget.

- Mutual Recognition Agreements

A Mutual Recognition Agreement (MRA), in relation to conformity assessment, gives an exporting country the right to test and certify products according to the importing countries' requirements, thus avoiding duplication of testing and certification by the importing country and simplifying trade.

Protocol 12 of the EEA Agreement provides that the Community negotiates MRAs with third countries on the basis that the third countries concerned will conclude parallel agreements with the EEA EFTA States, equivalent to those concluded with the Community. The EU negotiations on MRAs with the USA, Canada, Australia, New Zealand, Japan and Switzerland were closely followed. In line with the EU's conclusion of MRAs with Australia, New Zealand, Canada and the US, the EEA EFTA States signed parallel agreements with Australia and New Zealand in April 1999, and were close to initialising an agreement with Canada at the end of the year.

EFTA also had contacts with several Central European countries with a view to negotiating European Assessment Agreements. These Agreements are similar to the protocols on European Conformity Assessment Agreements negotiated by the EU, whereby the concept of MRAs is taken a step further in that the country concerned will harmonise its sectoral legislation according to the provisions in the EEA Agreement. The EU's agreements are part of the pre-accession strategy and imply an extension of the Internal Market for the product sector covered by an MRA with the CEEC concerned.

- *Veterinary matters*

Considerable progress was made in the veterinary field during 1999. Firstly, the entry into force of the revised Annex I on 1 January 1999 led to the removal of veterinary border controls for fish, live animals and animal products traded between the EEA EFTA States concerned and the EU. Legislation for trade in live animals and animal products with third countries, as well as Community regulations on animal welfare were also implemented in the EEA EFTA States. Decisions were adopted by the Joint Committee on outstanding issues related to the revised Annex I, namely Directive 91/67/EEC on aquaculture, the distribution of lists of establishments and the pre-selected border inspection posts in Iceland.

Secondly, the adoption of Joint Committee Decision No 76/1999 in June, also referred to as the Additional Package, and subsequently seventeen decisions in October, incorporated another 291 legal acts into Annex I of the Agreement. It represented an important step towards reducing the backlog of outstanding EU acquis in the veterinary field.

- *Feedingstuffs*

One Joint Committee Decision related to feedingstuffs, incorporating 15 EC acts from the period 1995 – 1997 was incorporated into the Agreement. EEA EFTA experts participated actively in the work of the EU Standing Committee on Feedingstuffs and its sub-groups.

- *Public procurement*

At its July meeting, the Joint Committee adopted Decision No 96/1999 incorporating EP and Council Directives 97/52/EC and 98/4/EC on procedures for the award of public contracts, which had been made necessary by the Government Procurement Agreement under the WTO as well as the adjustments necessary to take account of the accession of Austria, Finland and Sweden to the EU.

- *Competition*

At its June meeting the Joint Committee adopted Decision No 87/1999 incorporating Commission Regulation (EC) No 1093/1999 prolonging the block exemption in the air transport sector. A first draft Joint Committee Decision incorporating Commission Regulation (EC) No 2790/1999 on vertical agreements and concerted practices was handed over to the EU side in December and was subsequently adopted by the Joint Committee in January 2000.

- *State aid*

A request by the EEA EFTA States in 1998 to participate in the Commission's Advisory Committee on State Aid met with a negative response. Dialogue will continue to ensure the adequate consultation with the EEA EFTA side.

- *Energy*

The Joint Committee adopted three decisions related to energy matters during 1999. The Council Directive on the market for natural gas was still under consideration in the EEA EFTA States.

- *Intellectual property*

EP and Council Directive 98/44/EC on the legal protection of biotechnological inventions, adopted by the EU on 6 July 1998, is still being considered by the EEA EFTA States.

- *Internal market Advisory committee (IMAC)*

The EEA EFTA experts participated actively in the work of IMAC, where the main issues were the Simplification of Legislation (SLIM), business test panels, action on market surveillance and the scoreboard for the implementation of Community legislation.

- *Protocol 3 – Processed agricultural products*

After the finalisation of the updating of Protocol 2 to the Free Trade Agreements, to conform with present WTO rules and principles, discussions between the EEA EFTA States and the Commission on the completion of Protocol 3 (trade in processed agricultural products) made swift progress during 1999. These discussions led to an agreement on substance in July.

- *Protocol 9 – Trade in fish and other marine products*

Following meetings at expert level with the Commission Services in the spring, the EEA EFTA States submitted a report to the Commission in November 1999 outlining issues linked to trade in fish and other marine products.

Free movement of capital and services

In the field of free movement of capital and services, 48 acts were incorporated into the EEA Agreement.

Financial Services and Company law

Three new legislative acts were integrated into Annex IX (financial services) and two into Annex XXII (Company law) in 1999. EFTA experts continued to participate in a number of working groups assisting the Commission in preparing new legislative proposals, and attended as observers, in particular, meetings of the Banking Advisory Committee, Insurance committee and the high Level Securities Supervisors Committee.

New Technology Services

- *Information and telecommunication services*

Nine new legislative acts were integrated into Annex XI (telecommunication services) in 1999. Directive 95/46/EC on the protection of individuals regarding the processing of personal data was incorporated into the Agreement by Joint Committee Decision No 83/1999, which will enter into force only after fulfilment of constitutional requirements in all EEA EFTA States. The Joint Committee has recognised the exceptionally wide scope of application of this Directive and follows closely the progress of the parliamentary procedures.

- *Audiovisual Services*

Three new legislative acts were integrated into Annex X (audio-visual services) in 1999. The Contracting Parties reached an agreement on the review of the adaptation to the Directive on TV without frontiers, allowing obscuring of advertisements for alcoholic beverages in the EEA EFTA States. The exception is subject to a new review in 2003. The agreement will be formalised through a Joint Committee Decision.

Transport

There were 31 legal acts in the field of transport incorporated into the Agreement in the course of 1999. EEA EFTA experts participated actively in the various EU expert

meetings and were associated with the work of comitology committees chaired by the Commission.

The Joint Committee prolonged the transitional period for Liechtenstein concerning EC acquis in the field of civil aviation until 1 January 2002.

Free Movement of Persons

In the field of free movement of persons, four acts were integrated into the Agreement.

Review of the transitional measures in Liechtenstein

The Joint Committee adopted a decision (No 191/1999) resulting from the review of the transitional measures on the free movement of persons in Liechtenstein. As a result access to economic activity in Liechtenstein is governed by the common rules. However, the possibility to restrict the right of residence in Liechtenstein is extended until 2006. During 1999, Liechtenstein continued to apply the safeguard measures restricting the issuing of residence permits, but allowing frontier workers to take up employment without restrictions. The measures will cease to apply once the Joint Committee Decision enters into force, after the fulfilment of constitutional requirements in Liechtenstein.

Social Security

The Joint Committee integrated into the Agreement six legislative acts in the domain of Social Security. For the first time, the EEA EFTA States were also invited to participate as observers in the Advisory Committee on Social Security.

Mutual Recognition of Diplomas

EP and Council Directive 97/50/EC amending Directive 93/16/EEC concerning the free movement of doctors was integrated into the Agreement. The Joint Committee Decision sets out procedures for making amendments to the list of specialisations in the Directive.

Employment

The EEA EFTA States continued to participate in the MISEP (Mutual information system on employment policies) correspondents' Group. Norway hosted for the first time a meeting of the Group in Oslo.

EEA EFTA experts were also invited to participate in a joint Employment Observatory conference comprising the MISEP and SYSDM (System of Documentation, Evaluation and Monitoring of Employment Policies) correspondents. Representatives of the EEA EFTA States were also invited to the two meetings of the Heads of Public Employment Services that took place during 1999.

Horizontal and Flanking Policies

In the field of horizontal and flanking policies, 66 acts were incorporated into the Agreement in 1999 through the adoption of 40 Joint Committee Decisions. Sixteen of these Decisions concerned participation in newly adopted Community programmes and efforts were made to ensure this participation as early as possible.

Social Policy

The Joint Committee adopted decisions to integrate five acts in the area of Social Policy into the Agreement.

The EEA EFTA States continued their participation as observers in a number of Community activities such as the action programme on equal opportunities for men and women, European Observatory on National Family Policies, the Advisory Committee on Equal Opportunities for Women and Men, as well as in the two Commission expert groups on Gender and Employment and Equality Law.

An expert from the EEA EFTA States continued to attend the Scientific Committee for Occupational Exposure Limits (SCOEL).

Consumer Protection

The EEA EFTA States were invited to send representatives to the meetings of the Group of Senior Consumer Policy Officials, to meetings of EU national experts on consumer education and to the expert Group on Commercial Communications.

Research and Development

The Fifth Framework Programme for Research, Technological Development and Demonstration Activities (1998-2002) was adopted by the EU in December 1998. The Joint Committee Decision of February 1999 extending it to the EEA entered into force on 30 June once the EEA EFTA States had completed parliamentary procedures. The delay in entry into force did not affect project proposals of the EEA EFTA partners as the Commission received and evaluated them before the legal basis had entered into force.

Education, Training and Youth

In April 1999, the EU adopted the second phase of the Leonardo da Vinci Programme on vocational training that will run for seven years from 2000 to 2006. The programme was incorporated into the EEA Agreement through the adoption of a Joint Committee Decision in November 1999.

The EU Council reached a political agreement on the second phase (2000 to 2006) of the higher education programme Socrates at the end of 1999. The late adoption of the programme will delay the formal inclusion of the EEA EFTA States.

Culture

Co-operation between the EEA EFTA States and the EU in the area of culture continued in 1999 through EEA EFTA participation in the three Community cultural programmes Kaleidoscope (artistic and cultural events), Ariane (books and reading) as well as Raphael (cultural heritage preservation). The three programmes are all to be followed by a single framework programme for cultural co-operation, Culture 2000. Preparations for EEA EFTA participation were initiated following the political agreement reached by the EU Council in late 1999.

Environment

Over the year, the EEA Joint Committee adopted decisions incorporating 18 acts in the field of environment relating to the areas of waste, GMOs, and eco-labelling. One decision concerned the working mandate for the European Environment Agency in Copenhagen.

As a follow-up to the conclusions from the EEA Council in June 1998, an informal meeting at ministerial level between the EEA EFTA and EU side took place on 1 November 1999. Discussions focussed on issues related to climate change.

Small and medium sized enterprises (SMEs)

In 1999 the EEA EFTA States continued their participation in the third multi-annual programme on SMEs. Experts from EEA EFTA States also participated in the programme on Joint European Ventures following the adoption of a related Joint Committee Decision.

Tourism

Representatives from the EEA EFTA States continued to participate in the EU Advisory Committee on Tourism, which met twice during 1999.

Civil Protection

The EEA EFTA States participated in the Community Action Programme in the field of Civil Protection as well as in the work of the Permanent Network of National Correspondents.

III Concluding remarks

The EEA Agreement has worked to the satisfaction of its Contracting Parties in 1999. However, its dynamic nature causes it to require constant attention to maintain the homogeneity, which is necessary for its proper functioning. The decision shaping process continues to work well, although there is still room for improvement. During the period concerned in this report, deviations from this principle have not seriously jeopardised the realisation of a homogeneous Economic Area, although constant efforts to keep them at check are necessary. Major efforts are required to speed up the publication of decisions so that those concerned can have a full and true picture of the EEA legislation in force.

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