

# EUROPEAN ECONOMIC AREA

## JOINT COMMITTEE

7 May 2013  
3 Annexes

Ref. 1120781

### **Annual Report of the EEA Joint Committee 2012 The Functioning of the EEA Agreement (Article 94(4))**

#### **General overview**

1. The main part of this report provides an overview of the work of the EEA Joint Committee in 2012. Annex I contains a review of the activities of the Subcommittees under the EEA Joint Committee, Annex II contains an overview of the state of decision making in 2012, and Annex III presents a list of EEA Joint Committee Decisions (JCDs) adopted in 2012.
2. Throughout the year, the EEA Joint Committee and the Subcommittees focused on several important areas for the European Economic Area. A few examples to highlight are the “Single European Sky II” (SES II) regulatory package, which seeks to improve the performance of air navigation services in Europe, the third legislative package for electricity and gas markets, the new EU acts and legislative proposals establishing the new EU system of financial supervision, and the Directive extending the EU Emissions Trading System (ETS) and related acts.
3. The EEA Joint Committee met eight times in 2012 and adopted 233 decisions (the highest number of decisions adopted in one single year since the establishment of the EEA) incorporating 486 legal acts (the highest number of acts adopted since 1999).
4. The EEA Joint Committee adopted several significant decisions in 2012, such as:
  - Decision No 6/2012 on the Framework Directive on Motor Vehicles
  - Decision Nos 59, 60 and 62/2012 on Maritime Safety
  - Decision No 64/2012 on the Airport Charges Directive
  - Decision No 109/2012 on the Audiovisual Media Services Directive
  - Decision No 126/2012 on the New Legislative Framework (the “Goods Package”)
  - Decision No 129/2012 on the Eurovignette Directive
  - Decision No 149/2012 on Temporary Agency Work
  - Decision No 152/2012 on the Revised Emission Trading System
  - Decision No 173/2012 on Roaming on Public Mobile Communications Networks
  - Decision No 181/2012 on Consumer Rights

- Decision No 217/2012 on the Labelling of Energy-Related Products
5. The European Commission provided briefings to the Joint Committee on:
- Commission Blueprint for a deep and genuine economic and monetary policy
  - Single Market Act II
6. The EEA EFTA States provided information to the Joint Committee on:
- Proposal by the Norwegian Government to change customs duties for certain agricultural products
  - Norwegian White Paper on the EEA Agreement and Norway's other agreements with the European Union
  - Notification from Iceland regarding the revision of protective measures under Article 43 of the EEA Agreement
  - Free movement of workers after the accession of Bulgaria and Romania on 1 January 2007
  - Agreement between Norway and Switzerland on sanitary measures applicable to trade in live animals, semen, ova, embryos and animal products
7. The biannual Internal Market Scoreboard, published by the EFTA Surveillance Authority (ESA) in February 2013, shows that the average transposition deficit of the EEA EFTA States decreased to 1%. Both Liechtenstein and Norway were below the deficit target of 1%. All three EEA EFTA States, however, increased their transposition delays. The EU Member States' average transposition deficit decreased to 0.6%. It should be noted that the Scoreboard refers exclusively to legal acts already incorporated into the EEA Agreement.

### **Processing of acquis into the EEA Agreement**

8. A joint process by the EEA EFTA States and the European External Action Service (EEAS) was launched in October 2011 to further improve the processing of acquis into the EEA Agreement. The threefold aim was: i) to reduce the number of EEA-relevant legal acts adopted on the EU side that had not been incorporated into the Agreement; ii) to reduce the time period between the entry into force of acts on the EU side and on the EEA EFTA side; and iii) to ensure that legal acts with constitutional requirements on the EEA EFTA side entered into force within the six-month period foreseen by the EEA Agreement.
9. Regarding the first point, the substantial efforts made to reduce the number of outstanding legal acts to be incorporated into the EEA Agreement have continued. A list of outstanding legal acts where the compliance date in the EU had passed was established, and this list has been updated regularly in order to better monitor progress in this area. As at 14 December 2012, there were 418 outstanding legal acts where the compliance date in the EU had passed. This figure includes 171 acts with a compliance date prior to the end of December 2011, compared to 544 acts on 9 December 2011.
10. Regarding the second point, 83 legal acts adopted by the EU in 2012 were incorporated into the EEA Agreement the same year. This demonstrates an

improvement in the management of these new acts with their timely incorporation into the Agreement (average of 7 months, 3 months in some cases).

11. Regarding the third point, the number of JCDs awaiting the fulfilment of constitutional requirements where the six-month period foreseen by Article 103 had expired stood at 12 as at 31 December 2012.

### **EEA EFTA participation in EU agencies and programmes**

12. The EEA EFTA States participated in 20 EU programmes and 18 agencies, of which 13 were regulatory agencies and five executive agencies.

### **Decision shaping**

13. The EEA EFTA States submitted EEA EFTA Comments on the following subjects:

- Credit institutions and investment firms
- Erasmus for All
- Recognition of prescriptions issued in another Member State
- Horizon 2020
- Internal Market Information System (IMI)
- Public procurement
- Alternative dispute resolution and online dispute resolution
- The Digital Single Market for e-commerce and online services
- Recognition of professional qualifications
- Programme for the competitiveness of enterprises and SMEs (COSME)
- Common European Sales Law
- Review of the auction time profile for the EU Emissions Trading System
- Guide to the implementation of directives based on the new approach and the global approach (the “Blue Guide”)
- Periodic roadworthiness test for motor vehicles and their trailers

### **Advisory bodies under the EEA**

14. The EEA Consultative Committee held its annual meeting in Akureyri, Iceland, on 3 and 4 May 2012. The Committee adopted two resolutions at the meeting:

- The EEA review
- The enterprise dimension of the Internal Market

The EEA Consultative Committee also discussed wealth inequalities and social justice in light of the present economic crisis.

15. The EEA Joint Parliamentary Committee held two meetings in 2012, on 4 May in Akureyri, Iceland, and on 27 November in Brussels. The Committee held a discussion on the EEA review and adopted resolutions, which were subsequently noted by the Joint Committee and forwarded to the EEA Council, on the following seven topics:

- Annual Report of the EEA Joint Committee on the Functioning of the EEA Agreement in 2011
- Review of the EEA
- EU White Paper on a Single European Transport Area
- EU programmes 2014-2020 and the participation of the EEA EFTA States
- EEA EFTA States' participation in EU agencies and the decision-making mechanisms
- Reform of EU Common Fisheries Policy
- Future of EU Energy Policy and its implications for the EEA

16. The Joint Committee, in response to a letter from the Chairman of the Joint Parliamentary Committee, committed to ensure the scrutiny of the Annual Report by sending the finalised and adopted report to the Joint Parliamentary Committee.

17. As a result of the requests from the Joint Parliamentary Committee that reporting on the processing of EEA-relevant legislation should become a permanent item in the Annual Report, the Joint Committee has included a chapter on the development concerning the processing of outstanding acts.

18. The Joint Parliamentary Committee called on the EEA EFTA States to take a strategic and holistic approach to the arrangement of national experts, including extending the system to institutions other than the European Commission, in particular the European Parliament. The proposal from the Joint Parliamentary Committee to have a national expert in the European Parliament was followed up in the Norwegian White Paper on the EEA of October 2012.

## **Financial Mechanisms**

19. The key results in 2012 from the EEA Financial Mechanism 2004-2009 period underline that funding has had a positive impact at local level by bringing about specific reductions in disparities, in particular where EU funding is limited. Results for the EEA and Norway Grants taken together show that 90% of the selected projects were completed as planned and 87% of projects exhibited good quality for the grant money spent.

20. Close to 40% of funding for the 2009-2014 EEA Financial Mechanism has been allocated to programmes dealing with environmental issues and climate change. Cultural heritage, civil society, human and social development, and research and scholarships are also supported.

21. Throughout 2012 there was a particular focus on ensuring strong bilateral ties between actors in the beneficiary and donor countries. Bilateral funds for common activities and initiatives were set up in the 15 beneficiary countries.

22. In 2012 there has also been a strong focus on promoting fundamental rights and democratic values. This has included efforts to combat discrimination and hate speech, and promote tolerance and multicultural awareness.

# **E U R O P E A N   E C O N O M I C   A R E A**

## **J O I N T   C O M M I T T E E**

Annex I to ref. 1120781

### **ACTIVITIES OF JOINT SUBCOMMITTEES IN 2012**

#### **FREE MOVEMENT OF GOODS**

##### **General**

1. Subcommittee I approved 319 legal acts for incorporation into the annexes and protocols to the EEA Agreement through 112 EEA Joint Committee Decisions (JCDs).

##### **Veterinary, feedingstuffs and phytosanitary matters**

2. 105 legal acts were incorporated in the veterinary field.
3. Each year, a number of legal acts are subject to the simplified procedure. Instead of being incorporated into the EEA Agreement, these acts are taken note of by the EEA Joint Committee.
4. The proposal to split the draft JCD on novel foods and genetically modified organisms for food and feed use was put forward by the EU side through the Joint Subcommittees in 2012.

##### **Technical regulations, standards, testing and certification**

5. 194 legal acts were incorporated into the EEA Agreement, of which most of the new legal acts related to foodstuffs, dangerous substances and motor vehicles.
6. In the field of medicinal products and medical devices a total number of 14 acts were incorporated.
7. The Joint Subcommittees continued discussions regarding the incorporation of the Paediatric Regulation into the EEA Agreement. In particular, they discussed whether the competence to impose fines, for both the Paediatric Regulation and the Regulation on Medicinal Products, should be given to the EFTA Surveillance Authority (ESA) or whether it should remain with the national authorities. Currently, a compromise solution suggested by the EEA EFTA side is being scrutinised by the EU side.
8. Furthermore, the Joint Subcommittees discussed modalities of implementation for Liechtenstein regarding the Directive on standards of quality of human organs intended for transplantation. The need for an adaptation follows from the fact that currently no organ transplants are taking place in Liechtenstein.

9. The Joint Subcommittees followed the incorporation of Directive 2011/62/EU closely, regarding falsified medicinal products, as well as the Pharmacovigilance Package, into the EEA Agreement. The incorporation of these acts is pending clarification regarding Liechtenstein's bilateral agreement with Austria.

10. In the field of cosmetic products, three legal acts were incorporated. The EU Chair of the Joint Subcommittees drew the EFTA side's attention to the importance of the timely incorporation of Regulation (EC) No 1223/2009 on cosmetic products, in order to ensure market access for products coming from the EEA EFTA States. The EFTA Chair of the Joint Subcommittees indicated that it was the ambition of the EEA EFTA States to incorporate this Regulation by the deadline and added that Iceland could have constitutional requirements.

11. In the field of construction products, 15 legal acts were incorporated. The incorporation of 11 acts was subject to the incorporation of the additional related acts on construction products in a single JCD.

### **Competition**

12. A review of the acts related to the former European Coal and Steel Community (ECSC) that had been incorporated into the EEA Agreement was initiated in 2011. The review was still ongoing in 2012.

### **Public procurement**

13. Two acts were incorporated into the EEA Agreement in the field of public procurement.

### **Energy**

14. 12 acts were incorporated in the field of energy, half of which dealt with the labelling of energy-related products, including the Energy Labelling Framework Directive. Other acts incorporated concerned ecodesign requirements for energy-related products, as well as renewable energy action plans under the Renewable Energy Directive, which was incorporated in 2011.

15. Important work was undertaken towards the incorporation of the Third Package for the Internal Energy Market into the EEA Agreement, but no Joint Committee Decision was taken. In light of the ongoing work on derived legislation in the new bodies, the Agency for the Cooperation of Energy Regulators (ACER) and the European Network(s) for Transmission System Operators (ENTSOs), the EEA EFTA States and the Commission worked together on specifying appropriate modalities for EEA EFTA participation in these new bodies.

### **Protocol 3 – Trade in processed agricultural products**

16. As a follow-up to the annual review of Protocol 3, the European Commission recommended identifying alternative ways in the form of exploratory talks and more frequent meetings to agree on further tariff concessions to harvest the potential for increased trade and market access for processed agricultural products. It was agreed that annual reviews should continue, but no commitments were made by Norway to

negotiate concessions to improve market access. Negotiations on the further liberalisation of processed agricultural products were ongoing with Iceland.

### **Article 19 – Trade in agricultural products**

17. Negotiations between Norway and the Commission on the liberalisation of trade in basic agricultural products under Article 19 of the EEA Agreement were concluded in 2010. The agreement entered into force on 1 January 2012.

18. An exchange of views took place on a proposal by the Norwegian Government to change customs duties for certain agricultural products. The increased duties on six tariff lines were implemented by Norway as of 1 January 2013 despite strong opposition from the EU side.

### **Customs matters and rules of origin**

19. The Regional Convention on Pan-Euro-Mediterranean Preferential Rules of Origin entered into force in 2012 for the European Union and for all EFTA States. The Convention also entered into force in 2012 in Albania, Croatia, FYROM and Montenegro. All other potential contracting parties still have to sign or ratify the Convention. The EEA EFTA States have proposed aligning the text in Protocol 4 on rules of origin to the text of the Convention, and have submitted a draft JCD to the EU side.

## **FREE MOVEMENT OF CAPITAL AND SERVICES**

20. In Subcommittee II, 75 legal acts were incorporated in the fields of financial services and company law, information and telecommunications services, audiovisual services and transport.

### **Financial services**

21. Nine legal acts were incorporated into Annex IX (financial services) including legislation on credit rating agencies, the amended Prospectus Directive and the implementing legislation on Undertakings for Collective Investment in Transferable Securities (UCITS).

22. Discussions continued on the incorporation of new EU acts and legislative proposals, such as the regulations establishing the new EU system of financial supervision (consisting of the European Systemic Risk Board, European Banking Authority, European Insurance and Occupational Pensions Authority, and European Securities and Markets Authority), the Deposit Guarantee Scheme Directive, the review of the Capital Requirement Directives and the Directive on Alternative Investment Fund Managers.

### **Information and telecommunications services**

23. 13 new legal acts were incorporated in the field of information and telecommunications services.

24. Discussions continued on the incorporation of the Telecom Package, in particular on the level of EEA EFTA participation in the Body of European Regulators for Electronic Communications (BEREC), which entered into force in the EU in January 2010.

25. A draft JCD on the incorporation of the Data Retention Directive is pending the agreement of the EEA EFTA States before being submitted to the Joint Committee for adoption. The deadline for the transposition of the Directive in the EU was in September 2007, with the possibility to postpone the application of the provisions relating to internet access, internet telephony and internet email until March 2009.

### **Postal services**

26. No progress was made regarding the processing of the Third Postal Directive.

### **Audiovisual services**

27. The Audiovisual and Media Services (AVMS) Directive was incorporated into the EEA Agreement.

### **Transport**

28. In the field of transport, 48 legal acts were incorporated, including the Directive on Charging Heavy Goods Vehicles, the Directive on Airport Charges and three directives on maritime safety.

29. The second regulatory package on the Single European Sky (SES II) was also discussed in order to prepare for its incorporation into the EEA Agreement. The package aims to improve the performance of air navigation services in Europe. One central element of the package is the Functional Airspace Blocks (FABs) which are meant to defragment European air space. The delegations discussed how this should be dealt with in the context of the EEA, particularly with respect to Iceland. Several regulations concerning a Community list of air carriers subject to an operating ban (the so-called "safety list") were incorporated in to the EEA Agreement, as well as several regulations concerning aviation safety and security.

## **FREE MOVEMENT OF PERSONS**

30. A total of seven acts were incorporated into the EEA Agreement under Subcommittee III, most of which related to social security, but also included the codified version of the Regulation on the Free Movement of Persons.

31. The new, modernised social security coordination rules entered into force, replacing the entire Annex VI to the EEA Agreement.

## **HORIZONTAL AND FLANKING POLICIES**

32. In the field of horizontal and flanking policies, the EEA Joint Committee incorporated 85 acts into the EEA Agreement in the areas of environment, education,



training and youth, gender equality and family policy, health and safety at work and labour law, consumer affairs and statistics.

### **Budgetary matters**

33. The 2012 proportionality factor was 2.60% compared to 2.38% in 2011. Through the budgetary procedure, it was agreed that 34 EEA EFTA national experts would be seconded to the various directorates within the European Commission that deal with the joint EU programmes and activities.

### **Health and safety at work and labour law**

34. Two acts were incorporated in the field of health and safety at work and labour law, notably the Directive on Temporary Agency Work.

### **Consumer affairs**

35. Six acts were incorporated in the area of consumer affairs, including the Consumer Rights Directive.

### **Environment**

36. In the field of environment, 64 legal acts were incorporated, including the Directive extending the EU Emission Trading System (ETS) and related acts, the EU Ecolabel Regulation and a number of related decisions, the Regulation on substances that deplete the ozone layer and other related regulations, and the Directive on the geological storage of carbon dioxide.

37. The third trading phase of the ETS, starting on 1 January 2013, came with significant changes compared to the two previous trading phases, notably a single EEA-wide cap on emissions, harmonised allocation rules for free allowances, and the inclusion of new sectors and gases into the system. Joint efforts by the EU side and the EEA EFTA side enabled incorporation of all related acts.