

LEXNET

EUROPEAN INFORMATION - SIA

---

# PUBLIC PROCUREMENT

## EEA - EFTA LEGISLATION 2006

Skolas iela 4-11  
LV-1010 Riga, Latvia  
VAT LV 40003655379

Phone: +371-7039-355  
Fax: +371-7039-240  
Mobile: +45-2622-0055

E-Mail: [pgj@lexnet.dk](mailto:pgj@lexnet.dk)  
Website: [www.lexnet.dk](http://www.lexnet.dk)  
Member: [www.eurolex.com](http://www.eurolex.com)

**Agreement on the European Economic Area****Final Act - Joint Declarations - Declarations by the Governments of the Member States of the Community and the EFTA States - Arrangements - Agreed Minutes - Declarations by one or several of the Contracting Parties of the Agreement on the European Economic Area**

## AGREEMENT ON THE EUROPEAN ECONOMIC AREA

## TABLE OF CONTENTS

PREAMBLE ..... 7

PART I OBJECTIVES AND PRINCIPLES..... 9

PART II FREE MOVEMENT OF GOODS..... 10

Chapter 1 Basic principles..... 10

Chapter 2 Agricultural and fishery products..... 11

Chapter 3 Cooperation in customs-related matters and trade facilitation..... 11

Chapter 4 Other rules relating to the free movement of goods ..... 11

Chapter 5 Coal and steel products..... 12

PART III FREE MOVEMENT OF PERSONS, SERVICES AND CAPITAL..... 12

Chapter 1 Workers and self-employed persons..... 12

Chapter 2 Right of establishment..... 13

Chapter 3 Services..... 13

Chapter 4 Capital..... 14

Chapter 5 Economic and monetary policy cooperation..... 14

Chapter 6 Transport..... 15

PART IV COMPETITION AND OTHER COMMON RULES..... 15

Chapter 1 Rules applicable to undertakings..... 15

Chapter 2 State aid..... 17

Chapter 3 Other common rules..... 18

PART V HORIZONTAL PROVISIONS RELEVANT TO THE FOUR

FREEDOMS ..... 19

Chapter 1 Social policy..... 19

Chapter 2 Consumer protection..... 19

Chapter 3 Environment..... 19

Chapter 4 Statistics..... 20

Chapter 5 Company law..... 20

PART VI COOPERATION OUTSIDE THE FOUR FREEDOMS..... 20

PART VII INSTITUTIONAL PROVISIONS..... 22

Chapter 1 The structure of the association..... 22

Chapter 2 The decision-making procedure..... 24

---

Chapter 3 Homogeneity, surveillance procedure and settlement of disputes ..... 26

Chapter 4 Safeguard measures..... 28

PART VIII FINANCIAL MECHANISM..... 28

PART IX GENERAL AND FINAL PROVISIONS..... 29

PROTOCOLS ..... 37

ANNEXES ..... 219

FINAL ACT ..... 523

PREAMBLE

THE EUROPEAN ECONOMIC COMMUNITY,

THE EUROPEAN COAL AND STEEL COMMUNITY,

THE KINGDOM OF BELGIUM,

THE KINGDOM OF DENMARK,

THE FEDERAL REPUBLIC OF GERMANY,

THE HELLENIC REPUBLIC,

THE KINGDOM OF SPAIN,

THE FRENCH REPUBLIC,

IRELAND,

THE ITALIAN REPUBLIC,

THE GRAND DUCHY OF LUXEMBOURG,

THE KINGDOM OF THE NETHERLANDS,

THE PORTUGUESE REPUBLIC,

THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND,

AND

THE REPUBLIC OF AUSTRIA,

THE REPUBLIC OF FINLAND,

THE REPUBLIC OF ICELAND,

THE PRINCIPALITY OF LIECHTENSTEIN,

THE KINGDOM OF NORWAY,

THE KINGDOM OF SWEDEN,

THE SWISS CONFEDERATION

hereinafter referred to as the CONTRACTING PARTIES;

CONVINCED of the contribution that a European Economic Area will bring to the construction of a Europe based on peace, democracy and human rights;

REAFFIRMING the high priority attached to the privileged relationship between the European Community, its Member States and the EFTA States, which is based on proximity, long-standing

common values and European identity;

DETERMINED to contribute, on the basis of market economy, to world-wide trade liberalization and cooperation, in particular in accordance with the provisions of the General Agreement on Tariffs and Trade and the Convention on the Organization for Economic Cooperation and Development;

CONSIDERING the objective of establishing a dynamic and homogeneous European Economic Area, based on common rules and equal conditions of competition and providing for the adequate means of enforcement including at the judicial level, and achieved on the basis of equality and reciprocity and of an overall balance of benefits, rights and obligations for the Contracting Parties;

DETERMINED to provide for the fullest possible realization of the free movement of goods, persons, services and capital within the whole European Economic Area, as well as for strengthened and broadened cooperation in flanking and horizontal policies;

AIMING to promote a harmonious development of the European Economic Area and convinced of the need to contribute through the application of this Agreement to the reduction of economic and social regional disparities;

DESIROUS of contributing to the strengthening of the cooperation between the members of the European Parliament and of the Parliaments of the EFTA States, as well as between the social partners in the European Community and in the EFTA States;

CONVINCED of the important role that individuals will play in the European Economic Area through the exercise of the rights conferred on them by this Agreement and through the judicial defence of these rights;

DETERMINED to preserve, protect and improve the quality of the environment and to ensure a prudent and rational utilization of natural resources on the basis, in particular, of the principle of sustainable development, as well as the principle that precautionary and preventive action should be taken;

DETERMINED to take, in the further development of rules, a high level of protection concerning health, safety and the environment as a basis;

NOTING the importance of the development of the social dimension, including equal treatment of men and women, in the European Economic Area and wishing to ensure economic and social progress and to promote conditions for full employment, an improved standard of living and improved working conditions within the European Economic Area;

DETERMINED to promote the interests of consumers and to strengthen their position in the market place, aiming at a high level of consumer protection;

ATTACHED to the common objectives of strengthening the scientific and technological basis of European industry and of encouraging it to become more competitive at the international level;

CONSIDERING that the conclusion of this Agreement shall not prejudice in any way the possibility of any EFTA State to accede to the European Communities;

WHEREAS, in full deference to the independence of the courts, the objective of the Contracting Parties is to arrive at, and maintain, a uniform interpretation and application of this Agreement and those provisions of Community legislation which are substantially reproduced in this Agreement and to arrive at an equal treatment of individuals and economic operators as regards the four freedoms and the conditions of competition;

WHEREAS this Agreement does not restrict the decision-making autonomy or the treaty-making power of the Contracting Parties, subject to the provisions of this Agreement and the limitations set

by public international law;

HAVE DECIDED to conclude the following Agreement:

#### PART I OBJECTIVES AND PRINCIPLES

##### *Article 1*

1. The aim of this Agreement of association is to promote a continuous and balanced strengthening of trade and economic relations between the Contracting Parties with equal conditions of competition, and the respect of the same rules, with a view to creating a homogeneous European Economic Area, hereinafter referred to as the [EEA](#).

2. In order to attain the objectives set out in paragraph 1, the association shall entail, in accordance with the provisions of this Agreement:

- (a) the free movement of goods;
- (b) the free movement of persons;
- (c) the free movement of services;
- (d) the free movement of capital;
- (e) the setting up of a system ensuring that competition is not distorted and that the rules thereon are equally respected; as well as
- (f) closer cooperation in other fields, such as research and development, the environment, education and social policy.

##### *Article 2*

For the purposes of this Agreement:

- (a) the term 'Agreement` means the main Agreement, its Protocols and Annexes as well as the acts referred to therein;
- (b) the term 'EFTA States` means the Contracting Parties, which are members of the European Free Trade Association;
- (c) the term 'Contracting Parties` means, concerning the Community and the EC Member States, the Community and the EC Member States, or the Community, or the EC Member States. The meaning to be attributed to this expression in each case is to be deduced from the relevant provisions of this Agreement and from the respective competences of the Community and the EC Member States as they follow from the Treaty establishing the European Economic Community and the Treaty establishing the European Coal and Steel Community.

##### *Article 3*

The Contracting Parties shall take all appropriate measures, whether general or particular, to ensure fulfilment of the obligations arising out of this Agreement.

---

They shall abstain from any measure which could jeopardize the attainment of the objectives of this Agreement.

Moreover, they shall facilitate cooperation within the framework of this Agreement.

*Article 4*

Within the scope of application of this Agreement, and without prejudice to any special provisions contained therein, any discrimination on grounds of nationality shall be prohibited.

*Article 5*

A Contracting Party may at any time raise a matter of concern at the level of the [EEA](#) Joint Committee or the [EEA](#) Council according to the modalities laid down in Articles 92(2) and 89(2), respectively.

*Article 6*

Without prejudice to future developments of case-law, the provisions of this Agreement, in so far as they are identical in substance to corresponding rules of the Treaty establishing the European Economic Community and the Treaty establishing the European Coal and Steel Community and to acts adopted in application of these two Treaties, shall, in their implementation and application, be interpreted in conformity with the relevant rulings of the Court of Justice of the European Communities given prior to the date of signature of this Agreement.

*Article 7*

Acts referred to or contained in the Annexes to this Agreement or in decisions of the [EEA](#) Joint Committee shall be binding upon the Contracting Parties and be, or be made, part of their internal legal order as follows:

- (a) an act corresponding to an EEC regulation shall as such be made part of the internal legal order of the Contracting Parties;
- (b) an act corresponding to an EEC directive shall leave to the authorities of the Contracting Parties the choice of form and method of implementation.

**PART II FREE MOVEMENT OF GOODS CHAPTER 1 BASIC PRINCIPLES**

*Article 8*

1. Free movement of goods between the Contracting Parties shall be established in conformity with the provisions of this Agreement.

2. Unless otherwise specified, Articles 10 to 15, 19, 20 and 25 to 27 shall apply only to products

---

originating in the Contracting Parties.

3. Unless otherwise specified, the provisions of this Agreement shall apply only to:

- (a) products falling within Chapters 25 to 97 of the Harmonized Commodity Description and Coding System, excluding the products listed in Protocol 2;
- (b) products specified in Protocol 3, subject to the specific arrangements set out in that Protocol.

*Article 9*

1. The rules of origin are set out in Protocol 4. They are without prejudice to any international obligations which have been, or may be, subscribed to by the Contracting Parties under the General Agreement on Tariffs and Trade.

2. With a view to developing the results achieved in this Agreement, the Contracting Parties will continue their efforts in order further to improve and simplify all aspects of rules of origin and to increase cooperation in customs matters.

3. A first review will take place before the end of 1993. Subsequent reviews will take place at two-yearly intervals. On the basis of these reviews, the Contracting Parties undertake to decide on the appropriate measures to be included in this Agreement.

*Article 10*

Customs duties on imports and exports, and any charges having equivalent effect, shall be prohibited between the Contracting Parties. Without prejudice to the arrangements set out in Protocol 5, this shall also apply to customs duties of a fiscal nature.

*Article 11*

Quantitative restrictions on imports and all measures having equivalent effect shall be prohibited between the Contracting Parties.

*Article 12*

Quantitative restrictions on exports and all measures having equivalent effect shall be prohibited between the Contracting Parties.

*Article 13*

The provisions of Articles 11 and 12 shall not preclude prohibitions or restrictions on imports, exports or goods in transit justified on grounds of public morality, public policy or public security; the protection of health and life of humans, animals or plants; the protection of national treasures possessing artistic, historic or archaeological value; or the protection of industrial and commercial

---

property. Such prohibitions or restrictions shall not, however, constitute a means of arbitrary discrimination or a disguised restriction on trade between the Contracting Parties.

*Article 14*

No Contracting Party shall impose, directly or indirectly, on the products of other Contracting Parties any internal taxation of any kind in excess of that imposed directly or indirectly on similar domestic products.

Furthermore, no Contracting Party shall impose on the products of other Contracting Parties any internal taxation of such a nature as to afford indirect protection to other products.

*Article 15*

Where products are exported to the territory of any Contracting Party, any repayment of internal taxation shall not exceed the internal taxation imposed on them whether directly or indirectly.

*Article 16*

1. The Contracting Parties shall ensure that any State monopoly of a commercial character be adjusted so that no discrimination regarding the conditions under which goods are procured and marketed will exist between nationals of EC Member States and EFTA States.

2. The provisions of this Article shall apply to any body through which the competent authorities of the Contracting Parties, in law or in fact, either directly or indirectly supervise, determine or appreciably influence imports or exports between Contracting Parties. These provisions shall likewise apply to monopolies delegated by the State to others.

## CHAPTER 2 AGRICULTURAL AND FISHERY PRODUCTS

*Article 17*

Annex I contains specific provisions and arrangements concerning veterinary and phytosanitary matters.

*Article 18*

Without prejudice to the specific arrangements governing trade in agricultural products, the Contracting Parties shall ensure that the arrangements provided for in Articles 17 and 23 (a) and (b), as they apply to products other than those covered by Article 8(3), are not compromised by other technical barriers to trade. Article 13 shall apply.

---

*Article 19*

1. The Contracting Parties shall examine any difficulties that might arise in their trade in agricultural products and shall endeavour to seek appropriate solutions.
2. The Contracting Parties undertake to continue their efforts with a view to achieving progressive liberalization of agricultural trade.
3. To this end, the Contracting Parties will carry out, before the end of 1993 and subsequently at two-yearly intervals, reviews of the conditions of trade in agricultural products.
4. In the light of the results of these reviews, within the framework of their respective agricultural policies and taking into account the results of the Uruguay Round, the Contracting Parties will decide, within the framework of this Agreement, on a preferential, bilateral or multilateral, reciprocal and mutually beneficial basis, on further reductions of any type of barriers to trade in the agricultural sector, including those resulting from State monopolies of a commercial character in the agricultural field.

*Article 20*

Provisions and arrangements that apply to fish and other marine products are set out in Protocol 9.

CHAPTER 3 COOPERATION IN CUSTOMS-RELATED MATTERS AND TRADE FACILITATION

*Article 21*

1. In order to facilitate trade between them, the Contracting Parties shall simplify border controls and formalities. Arrangements for this purpose are set out in Protocol 10.
2. The Contracting Parties shall assist each other in customs matters in order to ensure that customs legislation is correctly applied. Arrangements for this purpose are set out in Protocol 11.
3. The Contracting Parties shall strengthen and broaden cooperation with the aim of simplifying the procedures for trade in goods, in particular in the context of Community programmes, projects and actions aimed at trade facilitation, in accordance with the rules set out in Part VI.
4. Notwithstanding Article 8(3), this Article shall apply to all products.

*Article 22*

A Contracting Party which is considering the reduction of the effective level of its duties or charges having equivalent effect applicable to third countries benefiting from most-favoured-nation treatment, or which is considering the suspension of their application, shall, as far as may be practicable, notify the [EEA Joint Committee](#) not later than 30 days before such reduction or suspension comes into effect. It shall take note of any representations by other Contracting Parties regarding

---

any distortions which might result therefrom.

#### CHAPTER 4 OTHER RULES RELATING TO THE FREE MOVEMENT OF GOODS

##### *Article 23*

Specific provisions and arrangements are laid down in:

- (a) Protocol 12 and Annex II in relation to technical regulations, standards, testing and certification;
- (b) Protocol 47 in relation to the abolition of technical barriers to trade in wine;
- (c) Annex III in relation to product liability.

They shall apply to all products unless otherwise specified.

##### *Article 24*

Annex IV contains specific provisions and arrangements concerning energy.

##### *Article 25*

Where compliance with the provisions of Articles 10 and 12 leads to:

- (a) re-export towards a third country against which the exporting Contracting Party maintains, for the product concerned, quantitative export restrictions, export duties or measures or charges having equivalent effect; or
- (b) a serious shortage, or threat thereof, of a product essential to the exporting Contracting Party;

and where the situations referred to above give rise, or are likely to give rise, to major difficulties for the exporting Contracting Party, that Contracting Party may take appropriate measures in accordance with the procedures set out in Article 113.

##### *Article 26*

Anti-dumping measures, countervailing duties and measures against illicit commercial practices attributable to third countries shall not be applied in relations between the Contracting Parties, unless otherwise specified in this Agreement.

#### CHAPTER 5 COAL AND STEEL PRODUCTS

##### *Article 27*

Provisions and arrangements concerning coal and steel products are set out in Protocols 14 and 25.

---

PART III FREE MOVEMENT OF PERSONS, SERVICES AND CAPITAL CHAPTER 1 WORKERS AND SELF-EMPLOYED PERSONS

*Article 28*

1. Freedom of movement for workers shall be secured among EC Member States and EFTA States.
2. Such freedom of movement shall entail the abolition of any discrimination based on nationality between workers of EC Member States and EFTA States as regards employment, remuneration and other conditions of work and employment.
3. It shall entail the right, subject to limitations justified on grounds of public policy, public security or public health:
  - (a) to accept offers of employment actually made;
  - (b) to move freely within the territory of EC Member States and EFTA States for this purpose;
  - (c) to stay in the territory of an EC Member State or an EFTA State for the purpose of employment in accordance with the provisions governing the employment of nationals of that State laid down by law, regulation or administrative action;
  - (d) to remain in the territory of an EC Member State or an EFTA State after having been employed there.
4. The provisions of this Article shall not apply to employment in the public service.
5. Annex V contains specific provisions on the free movement of workers.

*Article 29*

In order to provide freedom of movement for workers and self-employed persons, the Contracting Parties shall, in the field of social security, secure, as provided for in Annex VI, for workers and self-employed persons and their dependants, in particular:

- (a) aggregation, for the purpose of acquiring and retaining the right to benefit and of calculating the amount of benefit, of all periods taken into account under the laws of the several countries;
- (b) payment of benefits to persons resident in the territories of Contracting Parties.

*Article 30*

In order to make it easier for persons to take up and pursue activities as workers and self-employed persons, the Contracting Parties shall take the necessary measures, as contained in Annex VII, concerning the mutual recognition of diplomas, certificates and other evidence of formal qualifications, and the coordination of the provisions laid down by law, regulation or administrative action in the Contracting Parties concerning the taking up and pursuit of activities by workers and self-employed persons.

CHAPTER 2 RIGHT OF ESTABLISHMENT

---

*Article 31*

1. Within the framework of the provisions of this Agreement, there shall be no restrictions on the freedom of establishment of nationals of an EC Member State or an EFTA State in the territory of any other of these States. This shall also apply to the setting up of agencies, branches or subsidiaries by nationals of any EC Member State or EFTA State established in the territory of any of these States.

Freedom of establishment shall include the right to take up and pursue activities as self-employed persons and to set up and manage undertakings, in particular companies or firms within the meaning of Article 34, second paragraph, under the conditions laid down for its own nationals by the law of the country where such establishment is effected, subject to the provisions of Chapter 4.

2. Annexes VIII to XI contain specific provisions on the right of establishment.

*Article 32*

The provisions of this Chapter shall not apply, so far as any given Contracting Party is concerned, to activities which in that Contracting Party are connected, even occasionally, with the exercise of official authority.

*Article 33*

The provisions of this Chapter and measures taken in pursuance thereof shall not prejudice the applicability of provisions laid down by law, regulation or administrative action providing for special treatment for foreign nationals on grounds of public policy, public security or public health.

*Article 34*

Companies or firms formed in accordance with the law of an EC Member State or an EFTA State and having their registered office, central administration or principal place of business within the territory of the Contracting Parties shall, for the purposes of this Chapter, be treated in the same way as natural persons who are nationals of EC Member States or EFTA States.

'Companies or firms' means companies or firms constituted under civil or commercial law, including cooperative societies, and other legal persons governed by public or private law, save for those which are non-profit-making.

*Article 35*

The provisions of Article 30 shall apply to the matters covered by this Chapter.

**CHAPTER 3 SERVICES**

---

*Article 36*

1. Within the framework of the provisions of this Agreement, there shall be no restrictions on freedom to provide services within the territory of the Contracting Parties in respect of nationals of EC Member States and EFTA States who are established in an EC Member State or an EFTA State other than that of the person for whom the services are intended.
2. Annexes IX to XI contain specific provisions on the freedom to provide services.

*Article 37*

Services shall be considered to be 'services' within the meaning of this Agreement where they are normally provided for remuneration, in so far as they are not governed by the provisions relating to freedom of movement for goods, capital and persons.

'Services' shall in particular include:

- (a) activities of an industrial character;
- (b) activities of a commercial character;
- (c) activities of craftsmen;
- (d) activities of the professions.

Without prejudice to the provisions of Chapter 2, the person providing a service may, in order to do so, temporarily pursue his activity in the State where the service is provided, under the same conditions as are imposed by that State on its own nationals.

*Article 38*

Freedom to provide services in the field of transport shall be governed by the provisions of Chapter 6.

*Article 39*

The provisions of Articles 30 and 32 to 34 shall apply to the matters covered by this Chapter.

**CHAPTER 4 CAPITAL***Article 40*

Within the framework of the provisions of this Agreement, there shall be no restrictions between the Contracting Parties on the movement of capital belonging to persons resident in EC Member States or EFTA States and no discrimination based on the nationality or on the place of residence of the parties or on the place where such capital is invested. Annex XII contains the provisions

---

necessary to implement this Article.

*Article 41*

Current payments connected with the movement of goods, persons, services or capital between Contracting Parties within the framework of the provisions of this Agreement shall be free of all restrictions.

*Article 42*

1. Where domestic rules governing the capital market and the credit system are applied to the movements of capital liberalized in accordance with the provisions of this Agreement, this shall be done in a non-discriminatory manner.
2. Loans for the direct or indirect financing of an EC Member State or an EFTA State or its regional or local authorities shall not be issued or placed in other EC Member States or EFTA States unless the States concerned have reached agreement thereon.

*Article 43*

1. Where differences between the exchange rules of EC Member States and EFTA States could lead persons resident in one of these States to use the freer transfer facilities within the territory of the Contracting Parties which are provided for in Article 40 in order to evade the rules of one of these States concerning the movement of capital to or from third countries, the Contracting Party concerned may take appropriate measures to overcome these difficulties.
2. If movements of capital lead to disturbances in the functioning of the capital market in any EC Member State or EFTA State, the Contracting Party concerned may take protective measures in the field of capital movements.
3. If the competent authorities of a Contracting Party make an alteration in the rate of exchange which seriously distorts conditions of competition, the other Contracting Parties may take, for a strictly limited period, the necessary measures in order to counter the consequences of such alteration.
4. Where an EC Member State or an EFTA State is in difficulties, or is seriously threatened with difficulties, as regards its balance of payments either as a result of an overall disequilibrium in its balance of payments, or as a result of the type of currency at its disposal, and where such difficulties are liable in particular to jeopardize the functioning of this Agreement, the Contracting Party concerned may take protective measures.

*Article 44*

The Community, on the one hand, and the EFTA States, on the other, shall apply their internal procedures, as provided for in Protocol 18, to implement the provisions of Article 43.

---

*Article 45*

1. Decisions, opinions and recommendations related to the measures laid down in Article 43 shall be notified to the [EEA](#) Joint Committee.
2. All measures shall be the subject of prior consultations and exchange of information within the [EEA](#) Joint Committee.
3. In the situation referred to in Article 43(2), the Contracting Party concerned may, however, on the grounds of secrecy and urgency take the measures, where this proves necessary, without prior consultations and exchange of information.
4. In the situation referred to in Article 43(4), where a sudden crisis in the balance of payments occurs and the procedures set out in paragraph 2 cannot be followed, the Contracting Party concerned may, as a precaution, take the necessary protective measures. Such measures must cause the least possible disturbance in the functioning of this Agreement and must not be wider in scope than is strictly necessary to remedy the sudden difficulties which have arisen.
5. When measures are taken in accordance with paragraphs 3 and 4, notice thereof shall be given at the latest by the date of their entry into force, and the exchange of information and consultations as well as the notifications referred to in paragraph 1 shall take place as soon as possible thereafter.

## CHAPTER 5 ECONOMIC AND MONETARY POLICY COOPERATION

*Article 46*

The Contracting Parties shall exchange views and information concerning the implementation of this Agreement and the impact of the integration on economic activities and on the conduct of economic and monetary policies. Furthermore, they may discuss macroeconomic situations, policies and prospects. This exchange of views and information shall take place on a non-binding basis.

## CHAPTER 6 TRANSPORT

*Article 47*

1. Articles 48 to 52 shall apply to transport by rail, road and inland waterway.
2. Annex XIII contains specific provisions on all modes of transport.

*Article 48*

1. The provisions of an EC Member State or an EFTA State, relative to transport by rail, road and inland waterway and not covered by Annex XIII, shall not be made less favourable in their direct or indirect effect on carriers of other States as compared with carriers who are nationals of that State.
2. Any Contracting Party deviating from the principle laid down in paragraph 1 shall notify the [EEA](#) Joint Committee thereof. The other Contracting Parties which do not accept the deviation

---

may take corresponding countermeasures.

*Article 49*

Aid shall be compatible with this Agreement if it meets the needs of coordination of transport or if it represents reimbursement for the discharge of certain obligations inherent in the concept of a public service.

*Article 50*

1. In the case of transport within the territory of the Contracting Parties, there shall be no discrimination which takes the form of carriers charging different rates and imposing different conditions for the carriage of the same goods over the same transport links on grounds of the country of origin or of destination of the goods in question.

2. The competent authority according to Part VII shall, acting on its own initiative or on application by an EC Member State or an EFTA State, investigate any cases of discrimination falling within this Article and take the necessary decisions within the framework of its internal rules.

*Article 51*

1. The imposition, in respect of transport operations carried out within the territory of the Contracting Parties, of rates and conditions involving any element of support or protection in the interest of one or more particular undertakings or industries, shall be prohibited unless authorized by the competent authority referred to in Article 50(2).

2. The competent authority shall, acting on its own initiative or on application by an EC Member State or an EFTA State, examine the rates and conditions referred to in paragraph 1, taking account in particular of the requirements of an appropriate regional economic policy, the needs of underdeveloped areas and the problems of areas seriously affected by political circumstances, on the one hand, and of the effects of such rates and conditions on competition between the different modes of transport, on the other.

The competent authority shall take the necessary decisions within the framework of its internal rules.

3. The prohibition provided for in paragraph 1 shall not apply to tariffs fixed to meet competition.

*Article 52*

Charges or dues in respect of the crossing of frontiers which are charged by a carrier in addition to transport rates shall not exceed a reasonable level after taking the costs actually incurred thereby into account. The Contracting Parties shall endeavour to reduce these costs progressively.

PART IV COMPETITION AND OTHER COMMON RULES CHAPTER 1 RULES APPLICABLE TO UNDERTAKINGS

---

*Article 53*

1. The following shall be prohibited as incompatible with the functioning of this Agreement: all agreements between undertakings, decisions by associations of undertakings and concerted practices which may affect trade between Contracting Parties and which have as their object or effect the prevention, restriction or distortion of competition within the territory covered by this Agreement, and in particular those which:

- (a) directly or indirectly fix purchase or selling prices or any other trading conditions;
- (b) limit or control production, markets, technical development, or investment;
- (c) share markets or sources of supply;
- (d) apply dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage;
- (e) make the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts.

2. Any agreements or decisions prohibited pursuant to this Article shall be automatically void.

3. The provisions of paragraph 1 may, however, be declared inapplicable in the case of:

- any agreement or category of agreements between undertakings;
- any decision or category of decisions by associations of undertakings;
- any concerted practice or category of concerted practices;

which contributes to improving the production or distribution of goods or to promoting technical or economic progress, while allowing consumers a fair share of the resulting benefit, and which does not:

- (a) impose on the undertakings concerned restrictions which are not indispensable to the attainment of these objectives;
- (b) afford such undertakings the possibility of eliminating competition in respect of a substantial part of the products in question.

*Article 54*

Any abuse by one or more undertakings of a dominant position within the territory covered by this Agreement or in a substantial part of it shall be prohibited as incompatible with the functioning of this Agreement in so far as it may affect trade between Contracting Parties.

Such abuse may, in particular, consist in:

- (a) directly or indirectly imposing unfair purchase or selling prices or other unfair trading conditions;
- (b) limiting production, markets or technical development to the prejudice of consumers;
- (c) applying dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage;

- (d) making the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts.

*Article 55*

1. Without prejudice to the provisions giving effect to Articles 53 and 54 as contained in Protocol 21 and Annex XIV of this Agreement, the EC Commission and the EFTA Surveillance Authority provided for in Article 108(1) shall ensure the application of the principles laid down in Articles 53 and 54.

The competent surveillance authority, as provided for in Article 56, shall investigate cases of suspected infringement of these principles, on its own initiative, or on application by a State within the respective territory or by the other surveillance authority. The competent surveillance authority shall carry out these investigations in cooperation with the competent national authorities in the respective territory and in cooperation with the other surveillance authority, which shall give it its assistance in accordance with its internal rules.

If it finds that there has been an infringement, it shall propose appropriate measures to bring it to an end.

2. If the infringement is not brought to an end, the competent surveillance authority shall record such infringement of the principles in a reasoned decision.

The competent surveillance authority may publish its decision and authorize States within the respective territory to take the measures, the conditions and details of which it shall determine, needed to remedy the situation. It may also request the other surveillance authority to authorize States within the respective territory to take such measures.

*Article 56*

1. Individual cases falling under Article 53 shall be decided upon by the surveillance authorities in accordance with the following provisions:

- (a) individual cases where only trade between EFTA States is affected shall be decided upon by the EFTA Surveillance Authority;
- (b) without prejudice to subparagraph (c), the EFTA Surveillance Authority decides, as provided for in the provisions set out in Article 58, Protocol 21 and the rules adopted for its implementation, Protocol 23 and Annex XIV, on cases where the turnover of the undertakings concerned in the territory of the EFTA States equals 33% or more of their turnover in the territory covered by this Agreement;
- (c) the EC Commission decides on the other cases as well as on cases under (b) where trade between EC Member States is affected, taking into account the provisions set out in Article 58, Protocol 21, Protocol 23 and Annex XIV.

2. Individual cases falling under Article 54 shall be decided upon by the surveillance authority in the territory of which a dominant position is found to exist. The rules set out in paragraph 1(b) and (c) shall apply only if dominance exists within the territories of both surveillance authorities.

3. Individual cases falling under subparagraph (c) of paragraph 1, whose effects on trade between EC Member States or on competition within the Community are not appreciable, shall be decided upon by the EFTA Surveillance Authority.

4. The terms 'undertaking' and 'turnover' are, for the purposes of this Article, defined in Protocol 22.

*Article 57*

1. Concentrations the control of which is provided for in paragraph 2 and which create or strengthen a dominant position as a result of which effective competition would be significantly impeded within the territory covered by this Agreement or a substantial part of it, shall be declared incompatible with this Agreement.

2. The control of concentrations falling under paragraph 1 shall be carried out by:

- (a) the EC Commission in cases falling under Regulation (EEC) No 4064/89 in accordance with that Regulation and in accordance with Protocols 21 and 24 and Annex XIV to this Agreement. The EC Commission shall, subject to the review of the EC Court of Justice, have sole competence to take decisions on these cases;
- (b) the EFTA Surveillance Authority in cases not falling under subparagraph (a) where the relevant thresholds set out in Annex XIV are fulfilled in the territory of the EFTA States in accordance with Protocols 21 and 24 and Annex XIV. This is without prejudice to the competence of EC Member States.

*Article 58*

With a view to developing and maintaining a uniform surveillance throughout the European Economic Area in the field of competition and to promoting a homogeneous implementation, application and interpretation of the provisions of this Agreement to this end, the competent authorities shall cooperate in accordance with the provisions set out in Protocols 23 and 24.

*Article 59*

1. In the case of public undertakings and undertakings to which EC Member States or EFTA States grant special or exclusive rights, the Contracting Parties shall ensure that there is neither enacted nor maintained in force any measure contrary to the rules contained in this Agreement, in particular to those rules provided for in Articles 4 and 53 to 63.

2. Undertakings entrusted with the operation of services of general economic interest or having the character of a revenue-producing monopoly shall be subject to the rules contained in this Agreement, in particular to the rules on competition, in so far as the application of such rules does not obstruct the performance, in law or in fact, of the particular tasks assigned to them. The development of trade must not be affected to such an extent as would be contrary to the interests of the Contracting Parties.

3. The EC Commission as well as the EFTA Surveillance Authority shall ensure within their respective

---

competence the application of the provisions of this Article and shall, where necessary, address appropriate measures to the States falling within their respective territory.

*Article 60*

Annex XIV contains specific provisions giving effect to the principles set out in Articles 53, 54, 57 and 59.

CHAPTER 2 STATE AID

*Article 61*

1. Save as otherwise provided in this Agreement, any aid granted by EC Member States, EFTA States or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Contracting Parties, be incompatible with the functioning of this Agreement.

2. The following shall be compatible with the functioning of this Agreement:

- (a) aid having a social character, granted to individual consumers, provided that such aid is granted without discrimination related to the origin of the products concerned;
- (b) aid to make good the damage caused by natural disasters or exceptional occurrences;
- (c) aid granted to the economy of certain areas of the Federal Republic of Germany affected by the division of Germany, in so far as such aid is required in order to compensate for the economic disadvantages caused by that division.

3. The following may be considered to be compatible with the functioning of this Agreement:

- (a) aid to promote the economic development of areas where the standard of living is abnormally low or where there is serious underemployment;
- (b) aid to promote the execution of an important project of common European interest or to remedy a serious disturbance in the economy of an EC Member State or an EFTA State;
- (c) aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest;
- (d) such other categories of aid as may be specified by the [EEA](#) Joint Committee in accordance with Part VII.

*Article 62*

1. All existing systems of State aid in the territory of the Contracting Parties, as well as any plans to grant or alter State aid, shall be subject to constant review as to their compatibility with Article 61. This review shall be carried out:

- (a) as regards the EC Member States, by the EC Commission according to the rules laid down in Article 93 of the Treaty establishing the European Economic Community;

(b) as regards the EFTA States, by the EFTA Surveillance Authority according to the rules set out in an agreement between the EFTA States establishing the EFTA Surveillance Authority which is entrusted with the powers and functions laid down in Protocol 26.

2. With a view to ensuring a uniform surveillance in the field of State aid throughout the territory covered by this Agreement, the EC Commission and the EFTA Surveillance Authority shall cooperate in accordance with the provisions set out in Protocol 27.

*Article 63*

Annex XV contains specific provisions on State aid.

*Article 64*

1. If one of the surveillance authorities considers that the implementation by the other surveillance authority of Articles 61 and 62 of this Agreement and Article 5 of Protocol 14 is not in conformity with the maintenance of equal conditions of competition within the territory covered by this Agreement, exchange of views shall be held within two weeks according to the procedure of Protocol 27, paragraph (f).

If a commonly agreed solution has not been found by the end of this two-week period, the competent authority of the affected Contracting Party may immediately adopt appropriate interim measures in order to remedy the resulting distortion of competition.

Consultations shall then be held in the [EEA](#) Joint Committee with a view to finding a commonly acceptable solution.

If within three months the [EEA](#) Joint Committee has not been able to find such a solution, and if the practice in question causes, or threatens to cause, distortion of competition affecting trade between the Contracting Parties, the interim measures may be replaced by definitive measures, strictly necessary to offset the effect of such distortion. Priority shall be given to such measures that will least disturb the functioning of the [EEA](#).

2. The provisions of this Article will also apply to State monopolies, which are established after the date of signature of the Agreement.

### CHAPTER 3 OTHER COMMON RULES

*Article 65*

1. Annex XVI contains specific provisions and arrangements concerning procurement which, unless otherwise specified, shall apply to all products and to services as specified.

2. Protocol 28 and Annex XVII contain specific provisions and arrangements concerning intellectual, industrial and commercial property, which, unless otherwise specified, shall apply to all products and services.

### PART V HORIZONTAL PROVISIONS RELEVANT TO THE FOUR FREEDOMS CHAPTER 1 SOCIAL POLICY

---

*Article 66*

The Contracting Parties agree upon the need to promote improved working conditions and an improved standard of living for workers.

*Article 67*

1. The Contracting Parties shall pay particular attention to encouraging improvements, especially in the working environment, as regards the health and safety of workers. In order to help achieve this objective, minimum requirements shall be applied for gradual implementation, having regard to the conditions and technical rules obtaining in each of the Contracting Parties. Such minimum requirements shall not prevent any Contracting Party from maintaining or introducing more stringent measures for the protection of working conditions compatible with this Agreement.

2. Annex XVIII specifies the provisions to be implemented as the minimum requirements referred to in paragraph 1.

*Article 68*

In the field of labour law, the Contracting Parties shall introduce the measures necessary to ensure the good functioning of this Agreement. These measures are specified in Annex XVIII.

*Article 69*

1. Each Contracting Party shall ensure and maintain the application of the principle that men and women should receive equal pay for equal work.

For the purposes of this Article, 'pay' means the ordinary basic or minimum wage or salary and any other consideration, whether in cash or in kind, which the worker receives, directly or indirectly, in respect of his employment from his employer.

Equal pay without discrimination based on sex means:

- (a) that pay for the same work at piece rates shall be calculated on the basis of the same unit of measurement;
- (b) that pay for work at time rates shall be the same for the same job.

2. Annex XVIII contains specific provisions for the implementation of paragraph 1.

*Article 70*

The Contracting Parties shall promote the principle of equal treatment for men and women by implementing the provisions specified in Annex XVIII.

---

*Article 71*

The Contracting Parties shall endeavour to promote the dialogue between management and labour at European level.

## CHAPTER 2 CONSUMER PROTECTION

*Article 72*

Annex XIX contains provisions on consumer protection.

## CHAPTER 3 ENVIRONMENT

*Article 73*

1. Action by the Contracting Parties relating to the environment shall have the following objectives:

- (a) to preserve, protect and improve the quality of the environment;
- (b) to contribute towards protecting human health;
- (c) to ensure a prudent and rational utilization of natural resources.

2. Action by the Contracting Parties relating to the environment shall be based on the principles that preventive action should be taken, that environmental damage should as a priority be rectified at source, and that the polluter should pay. Environmental protection requirements shall be a component of the Contracting Parties' other policies.

*Article 74*

Annex XX contains the specific provisions on protective measures which shall apply pursuant to Article 73.

*Article 75*

The protective measures referred to in Article 74 shall not prevent any Contracting Party from maintaining or introducing more stringent protective measures compatible with this Agreement.

## CHAPTER 4 STATISTICS

*Article 76*

1. The Contracting Parties shall ensure the production and dissemination of coherent and comparable statistical information for describing and monitoring all relevant economic, social and environmental

aspects of the [EEA](#).

2. To this end the Contracting Parties shall develop and use harmonized methods, definitions and classifications as well as common programmes and procedures organizing statistical work at appropriate administrative levels and duly observing the need for statistical confidentiality.
3. Annex XXI contains specific provisions on statistics.
4. Protocol 30 contains specific provisions on the organization of cooperation in the field of statistics.

#### CHAPTER 5 COMPANY LAW

##### *Article 77*

Annex XXII contains specific provisions on company law.

#### PART VI COOPERATION OUTSIDE THE FOUR FREEDOMS

##### *Article 78*

The Contracting Parties shall strengthen and broaden cooperation in the framework of the Community's activities in the fields of:

- research and technological development,
- information services,
- the environment,
- education, training and youth,
- social policy,
- consumer protection,
- small and medium-sized enterprises,
- tourism,
- the audiovisual sector, and
- civil protection,

in so far as these matters are not regulated under the provisions of other Parts of this Agreement.

##### *Article 79*

1. The Contracting Parties shall strengthen the dialogue between them by all appropriate means, in particular through the procedures provided for in Part VII, with a view to identifying areas and activities where closer cooperation could contribute to the attainment of their common objectives in the fields referred to in Article 78.
2. They shall, in particular, exchange information and, at the request of a Contracting Party,

hold consultations within the [EEA](#) Joint Committee in respect of plans or proposals for the establishment or amendment of framework programmes, specific programmes, actions and projects in the fields referred to in Article 78.

3. Part VII shall apply *mutatis mutandis* with regard to this Part whenever the latter or Protocol 31 specifically provides therefor.

#### *Article 80*

The cooperation provided for in Article 78 shall normally take one of the following forms:

- participation by EFTA States in EC framework programmes, specific programmes, projects or other actions;
- establishment of joint activities in specific areas, which may include concertation or coordination of activities, fusion of existing activities and establishment of *ad hoc* joint activities;
- the formal and informal exchange or provision of information;
- common efforts to encourage certain activities throughout the territory of the Contracting Parties;
- parallel legislation, where appropriate, of identical or similar content;
- coordination, where this is of mutual interest, of efforts and activities via, or in the context of, international organizations, and of cooperation with third countries.

#### *Article 81*

Where cooperation takes the form of participation by EFTA States in an EC framework programme, specific programme, project or other action, the following principles shall apply:

- (a) The EFTA States shall have access to all parts of a programme.
- (b) The status of the EFTA States in the committees which assist the EC Commission in the management or development of a Community activity to which EFTA States may be contributing financially by virtue of their participation shall take full account of that contribution.
- (c) Decisions by the Community, other than those relating to the general budget of the Community, which affect directly or indirectly a framework programme, specific programme, project or other action, in which EFTA States participate by a decision under this Agreement, shall be subject to the provisions of Article 79(3). The terms and conditions of the continued participation in the activity in question may be reviewed by the [EEA](#) Joint Committee in accordance with Article 86.
- (d) At the project level, institutions, undertakings, organizations and nationals of EFTA States shall have the same rights and obligations in the Community programme or other action in question as those applicable to partner institutions, undertakings, organizations and nationals of EC Member States. The same shall apply *mutatis mutandis* to participants in exchanges between EC Member States and EFTA States, under the activity in question.
- (e) EFTA States, their institutions, undertakings, organizations and nationals shall have the same rights and obligations with regard to dissemination, evaluation and exploitation of results as those applicable to EC Member States, their institutions, undertakings, organizations and

nationals.

- (f) The Contracting Parties undertake, in accordance with their respective rules and regulations, to facilitate the movement of participants in the programme and other action to the extent necessary.

*Article 82*

1. When the cooperation envisaged under the present Part involves a financial participation of the EFTA States, this participation shall take one of the following forms:

- (a) The contribution of the EFTA States, arising from their participation in Community activities, shall be calculated proportionally:

- to the commitment appropriations; and
- to the payment appropriations;

entered each year for the Community in the general budget of the Community for each budgetary line corresponding to the activities in question.

The 'proportionality factor' determining the participation of the EFTA States shall be the sum of the ratios between, on the one hand, the gross domestic product at market prices of each of the EFTA States and, on the other hand, the sum of the gross domestic products at market prices of the EC Member States and of that EFTA State. This factor shall be calculated, for each budgetary year, on the basis of the most recent statistical data.

The amount of the contribution of the EFTA States shall be additional, both in commitment appropriations and in payment appropriations, to the amounts entered for the Community in the general budget on each line corresponding to the activities concerned.

The contributions to be paid each year by the EFTA States shall be determined on the basis of the payment appropriations.

Commitments entered into by the Community prior to the entry into force, on the basis of this Agreement, of the participation of the EFTA States in the activities in question - as well as the payments which result from this - shall give rise to no contribution on the part of the EFTA States.

- (b) The financial contribution of the EFTA States deriving from their participation in certain projects or other activities shall be based on the principle that each Contracting Party shall cover its own costs, with an appropriate contribution which shall be fixed by the [EEA](#) Joint Committee to the Community's overhead costs.
- (c) The [EEA](#) Joint Committee shall take the necessary decisions concerning the contribution of the Contracting Parties to the costs of the activity in question.

2. The detailed provisions for the implementation of this Article are set out in Protocol 32.

*Article 83*

Where cooperation takes the form of an exchange of information between public authorities, the EFTA States shall have the same rights to receive, and obligations to provide, information as EC Member States, subject to the requirements of confidentiality, which shall be fixed by the [EEA](#) Joint Committee.

---

*Article 84*

Provisions governing cooperation in specific fields are set out in Protocol 31.

*Article 85*

Unless otherwise provided for in Protocol 31, cooperation already established between the Community and individual EFTA States in the fields referred to in Article 78 on the date of entry into force of this Agreement shall thereafter be governed by the relevant provisions of this Part and of Protocol 31.

*Article 86*

The EEA Joint Committee shall, in accordance with Part VII, take all decisions necessary for the implementation of Articles 78 to 85 and measures derived therefrom, which may include, inter alia, supplementing and amending the provisions of Protocol 31, as well as adopting any transitional arrangements required by way of implementation of Article 85.

*Article 87*

The Contracting Parties shall take the necessary steps to develop, strengthen or broaden cooperation in the framework of the Community's activities in fields not listed in Article 78, where such cooperation is considered likely to contribute to the attainment of the objectives of this Agreement, or is otherwise deemed by the Contracting Parties to be of mutual interest. Such steps may include the amendment of Article 78 by the addition of new fields to those listed therein.

*Article 88*

Without prejudice to provisions of other Parts of this Agreement, the provisions of this Part shall not preclude the possibility for any Contracting Party to prepare, adopt and implement measures independently.

PART VII INSTITUTIONAL PROVISIONS CHAPTER 1 THE STRUCTURE OF THE ASSOCIATION  
Section 1 The EEA Council

*Article 89*

1. An EEA Council is hereby established. It shall, in particular, be responsible for giving the political impetus in the implementation of this Agreement and laying down the general guidelines for the EEA Joint Committee.

---

To this end, the EEA Council shall assess the overall functioning and the development of the Agreement. It shall take the political decisions leading to amendments of the Agreement.

2. The Contracting Parties, as to the Community and the EC Member States in their respective fields of competence, may, after having discussed it in the EEA Joint Committee, or directly in exceptionally urgent cases, raise in the EEA Council any issue giving rise to a difficulty.

3. The EEA Council shall by decision adopt its rules of procedure.

*Article 90*

1. The EEA Council shall consist of the members of the Council of the European Communities and members of the EC Commission, and of one member of the Government of each of the EFTA States.

Members of the EEA Council may be represented in accordance with the conditions to be laid down in its rules of procedure.

2. Decisions by the EEA Council shall be taken by agreement between the Community, on the one hand, and the EFTA States, on the other.

*Article 91*

1. The office of President of the EEA Council shall be held alternately, for a period of six months, by a member of the Council of the European Communities and a member of the Government of an EFTA State.

2. The EEA Council shall be convened twice a year by its President. The EEA Council shall also meet whenever circumstances so require, in accordance with its rules of procedure.

Section 2 The EEA Joint Committee

*Article 92*

1. An EEA Joint Committee is hereby established. It shall ensure the effective implementation and operation of this Agreement. To this end, it shall carry out exchanges of views and information and take decisions in the cases provided for in this Agreement.

2. The Contracting Parties, as to the Community and the EC Member States in their respective fields of competence, shall hold consultations in the EEA Joint Committee on any point of relevance to the Agreement giving rise to a difficulty and raised by one of them.

3. The EEA Joint Committee shall by decision adopt its rules of procedure.

*Article 93*

1. The EEA Joint Committee shall consist of representatives of the Contracting Parties.

2. The EEA Joint Committee shall take decisions by agreement between the Community, on the one

---

hand, and the EFTA States speaking with one voice, on the other.

*Article 94*

1. The office of President of the EEA Joint Committee shall be held alternately, for a period of six months, by the representative of the Community, i.e. the EC Commission, and the representative of one of the EFTA States.
2. In order to fulfil its functions, the EEA Joint Committee shall meet, in principle, at least once a month. It shall also meet on the initiative of its President or at the request of one of the Contracting Parties in accordance with its rules of procedure.
3. The EEA Joint Committee may decide to establish any subcommittee or working group to assist it in carrying out its tasks. The EEA Joint Committee shall in its rules of procedure lay down the composition and mode of operation of such subcommittees and working groups. Their tasks shall be determined by the EEA Joint Committee in each individual case.
4. The EEA Joint Committee shall issue an annual report on the functioning and the development of this Agreement.

Section 3 Parliamentary cooperation

*Article 95*

1. An EEA Joint Parliamentary Committee is hereby established. It shall be composed of equal numbers of, on the one hand, members of the European Parliament and, on the other, members of Parliaments of the EFTA States. The total number of members of the Committee is laid down in the Statute in Protocol 36.
2. The EEA Joint Parliamentary Committee shall alternately hold sessions in the Community and in an EFTA State in accordance with the provisions laid down in Protocol 36.
3. The EEA Joint Parliamentary Committee shall contribute, through dialogue and debate, to a better understanding between the Community and the EFTA States in the fields covered by this Agreement.
4. The EEA Joint Parliamentary Committee may express its views in the form of reports or resolutions, as appropriate. It shall, in particular, examine the annual report of the EEA Joint Committee, issued in accordance with Article 94(4), on the functioning and the development of this Agreement.
5. The President of the EEA Council may appear before the EEA Joint Parliamentary Committee in order to be heard by it.
6. The EEA Joint Parliamentary Committee shall adopt its rules of procedure.

Section 4 Cooperation between economic and social partners

*Article 96*

1. Members of the Economic and Social Committee and other bodies representing the social partners

in the Community and the corresponding bodies in the EFTA States shall work to strengthen contacts between them and to cooperate in an organized and regular manner in order to enhance the awareness of the economic and social aspects of the growing interdependence of the economies of the Contracting Parties and of their interests within the context of the EEA.

2. To this end, an EEA Consultative Committee is hereby established. It shall be composed of equal numbers of, on the one hand, members of the Economic and Social Committee of the Community and, on the other, members of the EFTA Consultative Committee. The EEA Consultative Committee may express its views in the form of reports or resolutions, as appropriate.

3. The EEA Consultative Committee shall adopt its rules of procedure.

## CHAPTER 2 THE DECISION-MAKING PROCEDURE

### *Article 97*

This Agreement does not prejudice the right for each Contracting Party to amend, without prejudice to the principle of non-discrimination and after having informed the other Contracting Parties, its internal legislation in the areas covered by this Agreement:

- if the EEA Joint Committee concludes that the legislation as amended does not affect the good functioning of this Agreement; or
- if the procedures referred to in Article 98 have been completed.

### *Article 98*

The Annexes to this Agreement and Protocols 1 to 7, 9 to 11, 19 to 27, 30 to 32, 37, 39, 41 and 47, as appropriate, may be amended by a decision of the EEA Joint Committee in accordance with Articles 93(2), 99, 100, 102 and 103.

### *Article 99*

1. As soon as new legislation is being drawn up by the EC Commission in a field which is governed by this Agreement, the EC Commission shall informally seek advice from experts of the EFTA States in the same way as it seeks advice from experts of the EC Member States for the elaboration of its proposals.

2. When transmitting its proposal to the Council of the European Communities, the EC Commission shall transmit copies thereof to the EFTA States.

At the request of one of the Contracting Parties, a preliminary exchange of views takes place in the EEA Joint Committee.

3. During the phase preceding the decision of the Council of the European Communities, in a continuous information and consultation process, the Contracting Parties consult each other again in the EEA Joint Committee at the significant moments at the request of one of them.

4. The Contracting Parties shall cooperate in good faith during the information and consultation phase with a view to facilitating, at the end of the process, the decision-taking in the EEA Joint

Committee.

*Article 100*

The EC Commission shall ensure experts of the EFTA States as wide a participation as possible according to the areas concerned, in the preparatory stage of draft measures to be submitted subsequently to the committees which assist the EC Commission in the exercise of its executive powers. In this regard, when drawing up draft measures the EC Commission shall refer to experts of the EFTA States on the same basis as it refers to experts of the EC Member States.

In the cases where the Council of the European Communities is seized in accordance with the procedure applicable to the type of committee involved, the EC Commission shall transmit to the Council of the European Communities the views of the experts of the EFTA States.

*Article 101*

1. In respect of committees which are covered neither by Article 81 nor by Article 100 experts from EFTA States shall be associated with the work when this is called for by the good functioning of this Agreement.

These committees are listed in Protocol 37. The modalities of such an association are set out in the relevant sectoral Protocols and Annexes dealing with the matter concerned.

2. If it appears to the Contracting Parties that such an association should be extended to other committees which present similar characteristics, the EEA Joint Committee may amend Protocol 37.

*Article 102*

1. In order to guarantee the legal security and the homogeneity of the EEA, the EEA Joint Committee shall take a decision concerning an amendment of an Annex to this Agreement as closely as possible to the adoption by the Community of the corresponding new Community legislation with a view to permitting a simultaneous application of the latter as well as of the amendments of the Annexes to the Agreement. To this end, the Community shall, whenever adopting a legislative act on an issue which is governed by this Agreement, as soon as possible inform the other Contracting Parties in the EEA Joint Committee.

2. The part of an Annex to this Agreement which would be directly affected by the new legislation is assessed in the EEA Joint Committee.

3. The Contracting Parties shall make all efforts to arrive at an agreement on matters relevant to this Agreement.

The EEA Joint Committee shall, in particular, make every effort to find a mutually acceptable solution where a serious problem arises in any area which, in the EFTA States, falls within the competence of the legislator.

4. If, notwithstanding the application of the preceding paragraph, an agreement on an amendment of an Annex to this Agreement cannot be reached, the EEA Joint Committee shall examine all further

possibilities to maintain the good functioning of this Agreement and take any decision necessary to this effect, including the possibility to take notice of the equivalence of legislation. Such a decision shall be taken at the latest at the expiry of a period of six months from the date of referral to the EEA Joint Committee or, if that date is later, on the date of entry into force of the corresponding Community legislation.

5. If, at the end of the time-limit set out in paragraph 4, the EEA Joint Committee has not taken a decision on an amendment of an Annex to this Agreement, the affected part thereof, as determined in accordance with paragraph 2, is regarded as provisionally suspended, subject to a decision to the contrary by the EEA Joint Committee. Such a suspension shall take effect six months after the end of the period referred to in paragraph 4, but in no event earlier than the date on which the corresponding EC act is implemented in the Community. The EEA Joint Committee shall pursue its efforts to agree on a mutually acceptable solution in order for the suspension to be terminated as soon as possible.

6. The practical consequences of the suspension referred to in paragraph 5 shall be discussed in the EEA Joint Committee. The rights and obligations which individuals and economic operators have already acquired under this Agreement shall remain. The Contracting Parties shall, as appropriate, decide on the adjustments necessary due to the suspension.

#### *Article 103*

1. If a decision of the EEA Joint Committee can be binding on a Contracting Party only after the fulfilment of constitutional requirements, the decision shall, if a date is contained therein, enter into force on that date, provided that the Contracting Party concerned has notified the other Contracting Parties by that date that the constitutional requirements have been fulfilled.

In the absence of such a notification by that date, the decision shall enter into force on the first day of the second month following the last notification.

TEXT CONTINUED UNDER DOC.NUM: 294A0103(01).1

2. If upon the expiry of a period of six months after the decision of the EEA Joint Committee such a notification has not taken place, the decision of the EEA Joint Committee shall be applied provisionally pending the fulfilment of the constitutional requirements unless a Contracting Party notifies that such a provisional application cannot take place. In the latter case, or if a Contracting Party notifies the non-ratification of a decision of the EEA Joint Committee, the suspension provided for in Article 102(5) shall take effect one month after such a notification but in no event earlier than the date on which the corresponding EC act is implemented in the Community.

#### *Article 104*

Decisions taken by the EEA Joint Committee in the cases provided for in this Agreement shall, unless otherwise provided for therein, upon their entry into force be binding on the Contracting Parties which shall take the necessary steps to ensure their implementation and application.

CHAPTER 3 HOMOGENEITY, SURVEILLANCE PROCEDURE AND SETTLEMENT OF DISPUTES  
Section 1 Homogeneity

---

*Article 105*

1. In order to achieve the objective of the Contracting Parties to arrive at as uniform an interpretation as possible of the provisions of the Agreement and those provisions of Community legislation which are substantially reproduced in the Agreement, the [EEA](#) Joint Committee shall act in accordance with this Article.
2. The [EEA](#) Joint Committee shall keep under constant review the development of the case-law of the Court of Justice of the European Communities and the EFTA Court. To this end judgments of these Courts shall be transmitted to the [EEA](#) Joint Committee which shall act so as to preserve the homogeneous interpretation of the Agreement.
3. If the [EEA](#) Joint Committee within two months after a difference in the case-law of the two Courts has been brought before it, has not succeeded to preserve the homogeneous interpretation of the Agreement, the procedures laid down in Article 111 may be applied.

*Article 106*

In order to ensure as uniform an interpretation as possible of this Agreement, in full deference to the independence of courts, a system of exchange of information concerning judgments by the EFTA Court, the Court of Justice of the European Communities and the Court of First Instance of the European Communities and the Courts of last instance of the EFTA States shall be set up by the [EEA](#) Joint Committee. This system shall comprise:

- (a) transmission to the Registrar of the Court of Justice of the European Communities of judgments delivered by such courts on the interpretation and application of, on the one hand, this Agreement or, on the other hand, the Treaty establishing the European Economic Community and the Treaty establishing the European Coal and Steel Community, as amended or supplemented, as well as the acts adopted in pursuance thereof in so far as they concern provisions which are identical in substance to those of this Agreement;
- (b) classification of these judgments by the Registrar of the Court of Justice of the European Communities including, as far as necessary, the drawing up and publication of translations and abstracts;
- (c) communications by the Registrar of the Court of Justice of the European Communities of the relevant documents to the competent national authorities, to be designated by each Contracting Party.

*Article 107*

Provisions on the possibility for an EFTA State to allow a court or tribunal to ask the Court of Justice of the European Communities to decide on the interpretation of an [EEA](#) rule are laid down in Protocol 34.

Section 2 Surveillance procedure

---

*Article 108*

1. The EFTA States shall establish an independent surveillance authority (EFTA Surveillance Authority) as well as procedures similar to those existing in the Community including procedures for ensuring the fulfilment of obligations under this Agreement and for control of the legality of acts of the EFTA Surveillance Authority regarding competition.

2. The EFTA States shall establish a court of justice (EFTA Court).

The EFTA Court shall, in accordance with a separate agreement between the EFTA States, with regard to the application of this Agreement be competent, in particular, for:

- (a) actions concerning the surveillance procedure regarding the EFTA States;
- (b) appeals concerning decisions in the field of competition taken by the EFTA Surveillance Authority;
- (c) the settlement of disputes between two or more EFTA States.

*Article 109*

1. The fulfilment of the obligations under this Agreement shall be monitored by, on the one hand, the EFTA Surveillance Authority and, on the other, the EC Commission acting in conformity with the Treaty establishing the European Economic Community, the Treaty establishing the European Coal and Steel Community and this Agreement.

2. In order to ensure a uniform surveillance throughout the [EEA](#), the EFTA Surveillance Authority and the EC Commission shall cooperate, exchange information and consult each other on surveillance policy issues and individual cases.

3. The EC Commission and the EFTA Surveillance Authority shall receive any complaints concerning the application of this Agreement. They shall inform each other of complaints received.

4. Each of these bodies shall examine all complaints falling within its competence and shall pass to the other body any complaints which fall within the competence of that body.

5. In case of disagreement between these two bodies with regard to the action to be taken in relation to a complaint or with regard to the result of the examination, either of the bodies may refer the matter to the [EEA](#) Joint Committee which shall deal with it in accordance with Article 111.

*Article 110*

Decisions under this Agreement by the EFTA Surveillance Authority and the EC Commission which impose a pecuniary obligation on persons other than States, shall be enforceable. The same shall apply to such judgments under this Agreement by the Court of Justice of the European Communities, the Court of First Instance of the European Communities and the EFTA Court.

Enforcement shall be governed by the rules of civil procedure in force in the State in the territory of which it is carried out. The order for its enforcement shall be appended to the decision, without other formality than verification of the authenticity of the decision, by the authority which each Contracting Party shall designate for this purpose and shall make known to the other Contracting

Parties, the EFTA Surveillance Authority, the EC Commission, the Court of Justice of the European Communities, the Court of First Instance of the European Communities and the EFTA Court.

When these formalities have been completed on application by the party concerned, the latter may proceed to enforcement, in accordance with the law of the State in the territory of which enforcement is to be carried out, by bringing the matter directly before the competent authority.

Enforcement may be suspended only by a decision of the Court of Justice of the European Communities, as far as decisions by the EC Commission, the Court of First Instance of the European Communities or the Court of Justice of the European Communities are concerned, or by a decision of the EFTA Court as far as decisions by the EFTA Surveillance Authority or the EFTA Court are concerned. However, the courts of the States concerned shall have jurisdiction over complaints that enforcement is being carried out in an irregular manner.

### Section 3 Settlement of disputes

#### *Article 111*

1. The Community or an EFTA State may bring a matter under dispute which concerns the interpretation or application of this Agreement before the [EEA](#) Joint Committee in accordance with the following provisions.

2. The [EEA](#) Joint Committee may settle the dispute. It shall be provided with all information which might be of use in making possible an in-depth examination of the situation, with a view to finding an acceptable solution. To this end, the [EEA](#) Joint Committee shall examine all possibilities to maintain the good functioning of the Agreement.

3. If a dispute concerns the interpretation of provisions of this Agreement, which are identical in substance to corresponding rules of the Treaty establishing the European Economic Community and the Treaty establishing the European Coal and Steel Community and to acts adopted in application of these two Treaties and if the dispute has not been settled within three months after it has been brought before the [EEA](#) Joint Committee, the Contracting Parties to the dispute may agree to request the Court of Justice of the European Communities to give a ruling on the interpretation of the relevant rules.

If the [EEA](#) Joint Committee in such a dispute has not reached an agreement on a solution within six months from the date on which this procedure was initiated or if, by then, the Contracting Parties to the dispute have not decided to ask for a ruling by the Court of Justice of the European Communities, a Contracting Party may, in order to remedy possible imbalances,

- either take a safeguard measure in accordance with Article 112(2) and following the procedure of Article 113;

- or apply Article 102 *mutatis mutandis*.

4. If a dispute concerns the scope or duration of safeguard measures taken in accordance with Article 111(3) or Article 112, or the proportionality of rebalancing measures taken in accordance with Article 114, and if the [EEA](#) Joint Committee after three months from the date when the matter has been brought before it has not succeeded to resolve the dispute, any Contracting Party may refer the dispute to arbitration under the procedures laid down in Protocol 33. No question of interpretation of the provisions of this Agreement referred to in paragraph 3 may be dealt with in such procedures. The arbitration award shall be binding on the parties to the dispute.

---

**CHAPTER 4 SAFEGUARD MEASURES***Article 112*

1. If serious economic, societal or environmental difficulties of a sectorial or regional nature liable to persist are arising, a Contracting Party may unilaterally take appropriate measures under the conditions and procedures laid down in Article 113.
2. Such safeguard measures shall be restricted with regard to their scope and duration to what is strictly necessary in order to remedy the situation. Priority shall be given to such measures as will least disturb the functioning of this Agreement.
3. The safeguard measures shall apply with regard to all Contracting Parties.

*Article 113*

1. A Contracting Party which is considering taking safeguard measures under Article 112 shall, without delay, notify the other Contracting Parties through the [EEA](#) Joint Committee and shall provide all relevant information.
2. The Contracting Parties shall immediately enter into consultations in the [EEA](#) Joint Committee with a view to finding a commonly acceptable solution.
3. The Contracting Party concerned may not take safeguard measures until one month has elapsed after the date of notification under paragraph 1, unless the consultation procedure under paragraph 2 has been concluded before the expiration of the stated time-limit. When exceptional circumstances requiring immediate action exclude prior examination, the Contracting Party concerned may apply forthwith the protective measures strictly necessary to remedy the situation.

For the Community, the safeguard measures shall be taken by the EC Commission.

4. The Contracting Party concerned shall, without delay, notify the measures taken to the [EEA](#) Joint Committee and shall provide all relevant information.
5. The safeguard measures taken shall be the subject of consultations in the [EEA](#) Joint Committee every three months from the date of their adoption with a view to their abolition before the date of expiry envisaged, or to the limitation of their scope of application.

Each Contracting Party may at any time request the [EEA](#) Joint Committee to review such measures.

*Article 114*

1. If a safeguard measure taken by a Contracting Party creates an imbalance between the rights and obligations under this Agreement, any other Contracting Party may towards that Contracting Party take such proportionate rebalancing measures as are strictly necessary to remedy the imbalance. Priority shall be given to such measures as will least disturb the functioning of the [EEA](#).
2. The procedure under Article 113 shall apply.

**PART VIII FINANCIAL MECHANISM**

---

*Article 115*

With a view to promoting a continuous and balanced strengthening of trade and economic relations between the Contracting Parties, as provided for in Article 1, the Contracting Parties agree on the need to reduce the economic and social disparities between their regions. They note in this regard the relevant provisions set out elsewhere in this Agreement and its related Protocols, including certain of the arrangements regarding agriculture and fisheries.

*Article 116*

A Financial Mechanism shall be established by the EFTA States to contribute, in the context of the [EEA](#) and in addition to the efforts already deployed by the Community in this regard, to the objectives laid down in Article 115.

*Article 117*

Provisions governing the Financial Mechanism are set out in Protocol 38.

## PART IX GENERAL AND FINAL PROVISIONS

*Article 118*

1. Where a Contracting Party considers that it would be useful in the interests of all the Contracting Parties to develop the relations established by this Agreement by extending them to fields not covered thereby, it shall submit a reasoned request to the other Contracting Parties within the [EEA](#) Council. The latter may instruct the [EEA](#) Joint Committee to examine all the aspects of this request and to issue a report.

The [EEA](#) Council may, where appropriate, take the political decisions with a view to opening negotiations between the Contracting Parties.

2. The agreements resulting from the negotiations referred to in paragraph 1 will be subject to ratification or approval by the Contracting Parties in accordance with their own procedures.

*Article 119*

The Annexes and the acts referred to therein as adapted for the purposes of this Agreement as well as the Protocols shall form an integral part of this Agreement.

*Article 120*

Unless otherwise provided in this Agreement and in particular in Protocols 41, 43 and 44, the

---

application of the provisions of this Agreement shall prevail over provisions in existing bilateral or multilateral agreements binding the European Economic Community, on the one hand, and one or more EFTA States, on the other, to the extent that the same subject matter is governed by this Agreement.

*Article 121*

The provisions of this Agreement shall not preclude cooperation:

- (a) within the framework of the Nordic cooperation to the extent that such cooperation does not impair the good functioning of this Agreement;
- (b) within the framework of the regional union between Switzerland and Liechtenstein to the extent that the objectives of this union are not attained by the application of this Agreement and the good functioning of this Agreement is not impaired;
- (c) within the framework of cooperation between Austria and Italy concerning Tyrol, Vorarlberg and Trentino-South Tyrol/Alto Adige, to the extent that such cooperation does not impair the good functioning of this Agreement.

*Article 122*

The representatives, delegates and experts of the Contracting Parties, as well as officials and other servants acting under this Agreement shall be required, even after their duties have ceased, not to disclose information of the kind covered by the obligation of professional secrecy, in particular information about undertakings, their business relations or their cost components.

*Article 123*

Nothing in this Agreement shall prevent a Contracting Party from taking any measures:

- (a) which it considers necessary to prevent the disclosure of information contrary to its essential security interests;
- (b) which relate to the production of, or trade in, arms, munitions and war materials or other products indispensable for defence purposes or to research, development or production indispensable for defence purposes, provided that such measures do not impair the conditions of competition in respect of products not intended for specifically military purposes;
- (c) which it considers essential to its own security in the event of serious internal disturbances affecting the maintenance of law and order, in time of war or serious international tension constituting threat of war or in order to carry out obligations it has accepted for the purpose of maintaining peace and international security.

*Article 124*

The Contracting Parties shall accord nationals of EC Member States and EFTA States the same

---

treatment as their own nationals as regards participation in the capital of companies or firms within the meaning of Article 34, without prejudice to the application of the other provisions of this Agreement.

*Article 125*

This Agreement shall in no way prejudice the rules of the Contracting Parties governing the system of property ownership.

*Article 126*

1. The Agreement shall apply to the territories to which the Treaty establishing the European Economic Community and the Treaty establishing the European Coal and Steel Community is applied and under the conditions laid down in those Treaties, and to the territories of the Republic of Austria, the Republic of Finland, the Republic of Iceland, the Principality of Liechtenstein, the Kingdom of Norway, the Kingdom of Sweden and the Swiss Confederation.

2. Notwithstanding paragraph 1, this Agreement shall not apply to the Åland Islands. The Government of Finland may, however, give notice, by a declaration deposited when ratifying this Agreement with the Depository, which shall transmit a certified copy thereof to the Contracting Parties, that the Agreement shall apply to those Islands under the same conditions as it applies to other parts of Finland subject to the following provisions:

- (a) The provisions of this Agreement shall not preclude the application of the provisions in force at any given time on the Åland Islands on:
  - (i) restrictions on the right for natural persons who do not enjoy regional citizenship in Åland, and for legal persons, to acquire and hold real property on the Åland Islands without permission by the competent authorities of the Islands;
  - (ii) restrictions on the right of establishment and the right to provide services by natural persons who do not enjoy regional citizenship in Åland, or by any legal person, without permission by the competent authorities of the Åland Islands.
- (b) The rights enjoyed by Ålanders in Finland shall not be affected by this Agreement.
- (c) The authorities of the Åland Islands shall apply the same treatment to all natural and legal persons of the Contracting Parties.

*Article 127*

Each Contracting Party may withdraw from this Agreement provided it gives at least 12 months' notice in writing to the other Contracting Parties.

Immediately after the notification of the intended withdrawal, the other Contracting Parties shall convene a diplomatic conference in order to envisage the necessary modifications to bring to the Agreement.



Ten blijke waarvan de ondergetekende gevolmachtigden hun handtekening onder deze Overeenkomst hebben gesteld.

Som bevitnelse på dette har de undertegnede befullmægtigede undertegnet denne avtale.

Em fé do que, os plenipotenciarios abaixo assinados apuseram as suas assinaturas no final do presente acordo.

Tämän vakuudeksi alla mainitut täysivaltaiset edustajat ovat allekirjoittaneet tämän sopimuksen.

Till bestyrkande härav har undertecknade befullmäktigade ombud undertecknat detta avtal.

Hecho en Oporto, el dos de mayo de mil novecientos noventa y dos.

Udfærdiget i Porto, den anden maj nitten hundrede og tooghalvfems.

Geschehen zu Porto am zweiten Mai neunzehnhundertzweiundneunzig.

êaéíå oöï áúñöï, oóéo äüï öaAno ééá áííéáêüöéá áíáí«íôá äüï.

Done at Oporto on the second day of May in the year one thousand nine hundred and ninety-two.

Fait à Porto, le deux mai mil neuf cent quatre-vingt-douze.

Gjört í Oporto annan dag maímana sar ari s nírtjan hundru s nírtúu og tvö.

Fatto a Porto, addi due maggio millenovecentonovantadue.

Gedaan te Oporto, de tweede mei negentienhonderd tweeennegentig.

Gitt i Oporte på den annen dag i mai i året nittenhundre og nitti to.

Feito no Porto, em dois de Maio de mil novecentos e noventa e dois.

Tehty portossa toisena päivänä toukokuuta tuhat yhdeksänsataayhdeksänkymmentäkaksi.

Undertecknat i Oporto de 2 maj 1992.

Por el Consejo y la Comision de las Comunidades Europeas

For Rådet og Kommissionen for De Europæiske Fællesskaber

Für den Rat und die Kommission der Europäischen Gemeinschaften

Áéa öï Ooiáíueéí éaé ôçí Á=éóññ=« ôùí Áoñù=auêí Eíéíô«ôùí

For the Council and the Commission of the European Communities

Pour le Conseil et la Commission des Communautés européennes

Per il Consiglio e la Commissione delle Comunità europee

Voor de Raad en de Commissie van de Europese Gemeenschappen

Pelo Conselho e pela Comissao das Comunidades Europeias

! REFERENCE TO A FILM!

Pour le royaume de Belgique

Voor het Koninkrijk België

! REFERENCE TO A FILM!

På Kongeriget Danmarks vegne

! REFERENCE TO A FILM!

---

Für die Bundesrepublik Deutschland

! REFERENCE TO A FILM!

Αέα ôçí Åeeçíéê« Æçiïêñãôßα

! REFERENCE TO A FILM!

Por el Reino de España

! REFERENCE TO A FILM!

Pour la République française

! REFERENCE TO A FILM!

Thar cheann Na hEireann

For Ireland

! REFERENCE TO A FILM!

Per la Repubblica italiana

! REFERENCE TO A FILM!

Pour le grand-duché de Luxembourg

! REFERENCE TO A FILM!

Voor het Koninkrijk der Nederlanden

! REFERENCE TO A FILM!

Pela Republica Portuguesa

! REFERENCE TO A FILM!

For the United Kingdom of Great Britain and Northern Ireland

! REFERENCE TO A FILM!

Für die Republik Österreich

! REFERENCE TO A FILM!

Suomen tasavallan puolesta

! REFERENCE TO A FILM!

Fyrir L'y sveldi s Island

! REFERENCE TO A FILM!

Für das Fürstentum Liechtenstein

! REFERENCE TO A FILM!

For Kongeriket Norge

! REFERENCE TO A FILM!

För Konungariket Sverige

! REFERENCE TO A FILM!

Für die Schweizerische Eidgenossenschaft

Pour la Confédération suisse

Per la Confederazione svizzera

! REFERENCE TO A FILM!

FINAL ACT

The plenipotentiaries of:

THE EUROPEAN ECONOMIC COMMUNITY,

THE EUROPEAN COAL AND STEEL COMMUNITY,

hereinafter referred to as 'the Community', and of:

THE KINGDOM OF BELGIUM,

THE KINGDOM OF DENMARK,

THE FEDERAL REPUBLIC OF GERMANY,

THE HELLENIC REPUBLIC,

THE KINGDOM OF SPAIN,

THE FRENCH REPUBLIC,

IRELAND,

THE ITALIAN REPUBLIC,

THE GRAND DUCHY OF LUXEMBOURG,

THE KINGDOM OF THE NETHERLANDS,

THE PORTUGUESE REPUBLIC,

THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND,

Contracting Parties to the Treaty establishing the EUROPEAN ECONOMIC COMMUNITY and the Treaty establishing the EUROPEAN COAL AND STEEL COMMUNITY,

hereinafter referred to as 'the EC Member States',

and

the plenipotentiaries of:

THE REPUBLIC OF AUSTRIA,

THE REPUBLIC OF FINLAND,

THE REPUBLIC OF ICELAND,

THE PRINCIPALITY OF LIECHTENSTEIN,

THE KINGDOM OF NORWAY,

THE KINGDOM OF SWEDEN,

THE SWISS CONFEDERATION,

hereinafter referred to as 'the EFTA States',

meeting at Oporto, this second day of May in the year one thousand nine hundred and ninety-two for the signature of the Agreement on the European Economic Area, hereinafter referred to as the

---

EEA Agreement, have adopted the following texts:

I. the Agreement on the European Economic Area;

II. the texts listed below which are annexed to the Agreement on the European Economic Area:

A. ! TABLE POSITION!

B. ! TABLE POSITION!

The plenipotentiaries of the EC Member States and of the Community and the plenipotentiaries of the EFTA States have adopted the joint declarations listed below and annexed to this Final Act:

1. Joint Declaration concerning the preparation of joint reports under paragraph 5 of Protocol 1 on horizontal adaptations;
2. Joint Declaration on mutual recognition and protection agreements for the designations of wine and spirituous beverages;
3. Joint Declaration on a transitional period concerning the issuing or making out of documents relating to the proof of origin;
4. Joint Declaration concerning Articles 10 and 14(1) of Protocol 11 to the Agreement;
5. Joint Declaration on electro-medical equipment;
6. Joint Declaration concerning nationals of the Republic of Iceland who hold a diploma in specialized medicine, specialized dentistry, veterinary medicine, pharmacy, general medical practice or architecture conferred in a third country;
7. Joint Declaration concerning nationals of the Republic of Iceland who hold higher-education diplomas awarded on completion of professional education and training of at least three years' duration conferred in a third country;
8. Joint Declaration on transport of goods by road;
9. Joint Declaration concerning rules on competition;
10. Joint Declaration on Article 61(3)(b) of the Agreement;
11. Joint Declaration on Article 61(3)(c) of the Agreement;
12. Joint Declaration on aid granted through the EC structural Funds or other financial instruments;
13. Joint Declaration on paragraph (c) of Protocol 27 to the Agreement;
14. Joint Declaration on shipbuilding;
15. Joint Declaration on applicable procedures in cases where, by virtue of Article 76 and Part VI of the Agreement and corresponding Protocols, EFTA States participate fully in EC committees;
16. Joint Declaration on cooperation in cultural affairs;
17. Joint Declaration on cooperation against illegal traffic in cultural goods;
18. Joint Declaration on the association of Community experts with the work of committees among the EFTA States or set up by the EFTA Surveillance Authority;
19. Joint Declaration on Article 103 of the Agreement;
20. Joint Declaration on Protocol 35 to the Agreement;
21. Joint Declaration concerning the Financial Mechanism;

- 
22. Joint Declaration on the relation between the [EEA](#) Agreement and existing agreements;
  23. Joint Declaration on the agreed interpretation of Article 4(1) and (2) of Protocol 9 on trade in fish and other marine products;
  24. Joint Declaration concerning the application of tariff concessions for certain agricultural products;
  25. Joint Declaration on plant health issues;
  26. Joint Declaration on mutual assistance between control authorities in the area of spirit drinks;
  27. Joint Declaration on Protocol 47 on the abolition of technical barriers to trade in wine;
  28. Joint Declaration on modification of tariff concessions and on special treatment of Spain and Portugal;
  29. Joint Declaration on animal welfare;
  30. Joint Declaration on the Harmonized System.

The plenipotentiaries of the EC Member States and the plenipotentiaries of the EFTA States have adopted the declarations listed below and annexed to this Final Act:

1. Declaration by the Governments of the Member States of the EC and the EFTA States on the facilitation of border controls;
2. Declaration by the Governments of the Member States of the EC and the EFTA States on political dialogue.

The plenipotentiaries of the EC Member States and of the Community and the plenipotentiaries of the EFTA States have also taken note of the arrangement regarding the functioning of a High-Level Interim Group during the period preceding the entry into force of the [EEA](#) Agreement which is annexed to this Final Act. They have further agreed that the High-Level Interim Group shall, at the latest by the entry into force of the [EEA](#) Agreement, decide on the authentication of texts of the EC acts referred to in the Annexes to the [EEA](#) Agreement which have been drawn up in the Finnish, Icelandic, Norwegian and Swedish languages.

The plenipotentiaries of the EC Member States and of the Community and the plenipotentiaries of the EFTA States have further taken note of the arrangement regarding the publication of [EEA](#) relevant information which is annexed to this Final Act.

Further, the plenipotentiaries of the EC Member States and of the Community and the plenipotentiaries of the EFTA States have taken note of the arrangement regarding the publication of EFTA notices on procurement which is annexed to this Final Act.

Furthermore, the plenipotentiaries of the EC Member States and of the Community and the plenipotentiaries of the EFTA States have adopted the Agreed Minutes from the negotiations which are annexed to this Final Act. The Agreed Minutes shall have a binding character.

Finally, the plenipotentiaries of the EC Member States and of the Community and the plenipotentiaries of the EFTA States have taken note of the declarations listed below and annexed to this Final Act:

1. Declaration by the Governments of Finland, Iceland, Norway and Sweden on alcohol monopolies;
2. Declaration by the Governments of Liechtenstein and Switzerland on alcohol monopolies;
3. Declaration by the European Community on mutual assistance in customs matters;

- 
4. Declaration by the Governments of the EFTA States on free circulation of light duty commercial vehicles;
  5. Declaration by the Government of Liechtenstein on product liability;
  6. Declaration by the Government of Liechtenstein on the specific situation of the country;
  7. Declaration by the Government of Austria on safeguards;
  8. Declaration by the European Community;
  9. Declaration by the Government of Iceland on the use of safeguard measures under the [EEA Agreement](#);
  10. Declaration by the Government of Switzerland on safeguard measures;
  11. Declaration by the European Community;
  12. Declaration by the Government of Switzerland on the introduction of post-diploma studies in architecture at the higher technical colleges;
  13. Declaration by the Governments of Austria and Switzerland on audiovisual services;
  14. Declaration by the Governments of Liechtenstein and Switzerland on administrative assistance;
  15. Declaration by the European Community;
  16. Declaration by the Government of Switzerland on the use of the safeguard clause in connection with capital movements;
  17. Declaration by the European Community;
  18. Declaration by the Government of Norway on the direct enforceability of decisions by the EC institutions regarding pecuniary obligations addressed to enterprises located in Norway;
  19. Declaration by the European Community;
  20. Declaration by the Government of Austria on the enforcement on its territory of decisions by EC institutions regarding pecuniary obligations;
  21. Declaration by the European Community;
  22. Declaration by the European Community on shipbuilding;
  23. Declaration by the Government of Ireland concerning Protocol 28 on intellectual property - international conventions;
  24. Declaration by the Governments of the EFTA States on the Charter of the Fundamental Social Rights of Workers;
  25. Declaration by the Government of Austria on the implementation of Article 5 of Directive 76/207/EEC in respect of night-work;
  26. Declaration by the European Community;
  27. Declaration by the European Community on the rights for the EFTA States before the EC Court of Justice;
  28. Declaration by the European Community on the rights of lawyers of the EFTA States under Community law;
  29. Declaration by the European Community on the participation of the EFTA States' experts in [EEA](#) relevant EC committees in application of Article 100 of the Agreement;
  30. Declaration by the European Community on Article 103 of the Agreement;

31. Declaration by the Governments of the EFTA States on Article 103(1) of the Agreement;
32. Declaration by the European Community on transit in the fisheries sector;
33. Declaration by the European Community and the Governments of Austria, Finland, Liechtenstein, Sweden and Switzerland on whale products;
34. Declaration by the Government of Switzerland concerning customs duties of a fiscal nature;
35. Declaration by the European Community on bilateral agreements;
36. Declaration by the Government of Switzerland on the Agreement between the EEC and the Swiss Confederation on the carriage of goods by road and rail;
37. Declaration by the Government of Austria on the Agreement between the EEC and the Republic of Austria on the transit of goods by road and rail;
38. Declaration by the Governments of the EFTA States concerning the EFTA financial mechanism;
39. Declaration by the Governments of the EFTA States concerning a court of first instance.

Hecho en Oporto, el dos de mayo de mil novecientos noventa y dos.

Udfærdiget i Porto, den anden maj nitten hundrede og tooghalvfems.

Geschehen zu Porto am zweiten Mai neunzehnhundertzweiundneunzig.

êáéíá oðí áúñðí, oðéo äüí öaAno ééá áííéáêüöéá áíáí«íôá äüí.

Done at Oporto on the second day of May in the year one thousand nine hundred and ninety-two.

Fait à Porto, le deux mai mil neuf cent quatre-vingt-douze.

Gjört í Oporto annan dag maímana sar ari s nítjan hundru s nítúfu og tvö.

Fatto a Porto, addi due maggio millenovecentonovantadue.

Gedaan te Oporto, de tweede mei negentienhonderd tweeennegentig.

Gitt i Oporte på den annen dag i mai i året nittenhundre og nitti to.

Feito no Porto, em dois de Maio de mil novecentos e noventa e dois.

Tehty portossa toisena päivänä toukokuuta tuhat yhdeksänsataayhdeksänkymmentäkaksi.

Undertecknat i Oporto de 2 maj 1992.

Por el Consejo y la Comision de las Comunidades Europeas

For Rådet og Kommissionen for De Europæiske Fællesskaber

Für den Rat und die Kommission der Europäischen Gemeinschaften

Áéá ðí Ooiáíueéí éáé ôçí Á=éðñí=« ôùí Áoñù=auéí Eíéíð«ôùí

For the Council and the Commission of the European Communities

Pour le Conseil et la Commission des Communautés européennes

Per il Consiglio e la Commissione delle Comunità europee

Voor de Raad en de Commissie van de Europese Gemeenschappen

Pelo Conselho e pela Comissao das Comunidades Europeias

! REFERENCE TO A FILM!

---

Pour le royaume de Belgique

Voor het Koninkrijk België

! REFERENCE TO A FILM!

På Kongeriget Danmarks vegne

! REFERENCE TO A FILM!

Für die Bundesrepublik Deutschland

! REFERENCE TO A FILM!

Αέα ôçí Άεεçíέê« Æçîêñáôßα

! REFERENCE TO A FILM!

Por el Reino de España

! REFERENCE TO A FILM!

Pour la République française

! REFERENCE TO A FILM!

Thar cheann Na hEireann

For Ireland

! REFERENCE TO A FILM!

Per la Repubblica italiana

! REFERENCE TO A FILM!

Pour le grand-duché de Luxembourg

! REFERENCE TO A FILM!

Voor het Koninkrijk der Nederlanden

! REFERENCE TO A FILM!

Pela Republica Portuguesa

! REFERENCE TO A FILM!

For the United Kingdom of Great Britain and Northern Ireland

! REFERENCE TO A FILM!

Für die Republik Österreich

! REFERENCE TO A FILM!

Suomen tasavallan puolesta

! REFERENCE TO A FILM!

Fyrir Lýsveldi s Ísland

! REFERENCE TO A FILM!

Für das Fürstentum Liechtenstein

! REFERENCE TO A FILM!

For Kongeriket Norge

! REFERENCE TO A FILM!

För Konungariket Sverige

! REFERENCE TO A FILM!

Für die Schweizerische Eidgenossenschaft

Pour la Confédération suisse

Per la Confederazione svizzera

! REFERENCE TO A FILM!

#### JOINT DECLARATION

concerning the preparation of joint reports under paragraph 5 of Protocol 1 on horizontal adaptations

As regards the review and reporting procedures under paragraph 5 of Protocol 1 on horizontal adaptations, it is understood that the [EEA](#) Joint Committee may, whenever it considers this useful, request the preparation of a joint report.

#### JOINT DECLARATION

on mutual recognition and protection agreements for the designations of wine and spirituous beverages

The Contracting Parties agree to negotiate with a view to concluding before 1 July 1993 separate mutual recognition and protection agreements for the designations of wine and spirituous beverages, taking into account the existing bilateral agreements.

#### JOINT DECLARATION

on a transitional period concerning the issuing or making out of documents relating to the proof of origin

- (a) For two years after the entry into force of the [EEA](#) Agreement, the competent customs authorities of the Community and those of Austria, Finland, Iceland, Norway, Sweden and Switzerland shall accept as valid proof of origin within the meaning of Protocol 4 to the [EEA](#) Agreement the following documents referred to in Article 13 of Protocol No 3 to the Free Trade Agreements between the EEC and the individual EFTA States mentioned above:
- (i) EUR.1 certificates, including long-term certificates, endorsed beforehand with the stamp of the competent customs office of the exporting State;
  - (ii) EUR.1 certificates, including long-term certificates, endorsed by an approved exporter with a special stamp which has been approved by the customs authorities of the exporting State; and
  - (iii) invoices referring to long-term certificates.
- (b) For six months after the entry into force of the [EEA](#) Agreement, the competent customs authorities of the Community and those of Austria, Finland, Iceland, Norway, Sweden and Switzerland shall accept as valid proof of origin within the meaning of Protocol 4 to the [EEA](#) Agreement the following documents referred to in Article 8 of Protocol No 3 to the Free Trade Agreements between the EEC and the individual EFTA States mentioned above:
- (i) invoices bearing the exporter's declaration as given in Annex V to Protocol No 3 made out in accordance with Article 13 of that Protocol; and
  - (ii) invoices bearing the exporter's declaration as given in Annex V to Protocol No 3 made out by any exporter.

- (c) Requests for subsequent verification of documents referred to in paragraphs (a) and (b) shall be accepted by the competent customs authorities of the Community and those of Austria, Finland, Iceland, Norway, Sweden and Switzerland for a period of two years after the issuing and making out of the proof of origin concerned. These verifications shall be carried out in accordance with Title VI of Protocol 4 to the [EEA](#) Agreement.

#### JOINT DECLARATION

concerning Articles 10 and 14(1) of Protocol 11 to the Agreement

The Contracting Parties stress the importance they attach to the protection of nominative data. They undertake to consider this matter further with a view to ensuring appropriate protection of such data under Protocol 11, at least at a level comparable to the one provided for by the Council of Europe Convention of 28 January 1981.

#### JOINT DECLARATION

on electro-medical equipment

The Contracting Parties take note that the Commission has presented to the Council a proposal for a Council Directive on electro-medical equipment falling so far within the scope of Directive 84/539/EEC (OJ No L 300, 19.11.1984, p. 179) (Annex II).

The Commission proposal strengthens the protection of patients, users and third persons by referring to harmonized standards which are to be adopted by CEN-CENELEC in accordance with the legal requirements and by subjecting these products to appropriate conformity assessment procedures including a third-party intervention for certain devices.

#### JOINT DECLARATION

concerning nationals of the Republic of Iceland who hold a diploma in specialized medicine, specialized dentistry, veterinary medicine, pharmacy, general medical practice or architecture conferred in a third country

Noting that Council Directives 75/362/EEC, 78/686/EEC, 78/1026/EEC, 85/384/EEC, 85/433/EEC and 86/457/EEC, as adapted for [EEA](#) purposes, refer only to diplomas, certificates and other evidence of formal qualifications conferred in the Contracting Parties;

anxious, however, to take account of the special position of nationals of the Republic of Iceland who, since there is no complete university training in specialized medicine, specialized dentistry, veterinary medicine and architecture in Iceland itself, since there are limited possibilities of training in specialized dentistry and of specific training in general medical practice and other specialization in medicine, and since there is only recently a complete university training in pharmacy offered in Iceland, have studied in a third country;

the Contracting Parties hereby recommend that the Governments concerned should allow nationals of the Republic of Iceland who hold a diploma in specialized dentistry, in veterinary medicine, in architecture, in pharmacy, on completion of specific training in general medical practice or of specializations in medicine, awarded in a third country and recognized by the competent Icelandic authorities, to take up and pursue activities as specialists in dentistry, veterinary surgeons, architects, pharmacists, general medical practitioners or specialists in medicine within the European Economic Area, by recognizing these diplomas in their territories.

#### JOINT DECLARATION

concerning nationals of the Republic of Iceland who hold higher-education diplomas awarded on completion of professional education and training of at least three years' duration conferred in a third country

Noting that Council Directive 89/48/EEC of 21 December 1988 on a general system for the recognition of higher-education diplomas awarded on completion of professional education and training of at least three years' duration (OJ No L 19, 24.1.1989, p. 16), as adapted for EEA purposes, refers to diplomas, certificates and other evidence of formal qualifications conferred mainly in the Contracting Parties;

anxious, however, to take account of the special position of nationals of the Republic of Iceland who, since there are limited possibilities of post-secondary education and a long tradition of students receiving this education abroad, have studied in a third country;

the Contracting Parties hereby recommend that the Governments concerned should allow nationals of the Republic of Iceland who hold a diploma of studies covered by the general system, awarded in a third country and recognized by the competent Icelandic authorities, to take up and pursue within the European Economic Area the activities of the professions concerned, by recognizing these diplomas in their territories.

#### JOINT DECLARATION

on transport of goods by road

If the European Community elaborates new legislation to amend, replace or prolong the application of rules on access to the market in transport of goods by road (First Council Directive of 23 July 1962 on certain types of carriage of goods between Member States, OJ No 70, 6.8.1962, p. 2005/62; Council Directive 65/269/EEC, OJ No 88, 24.5.1965, p. 1469/65; Council Regulation (EEC) No 3164/76, OJ No L 357, 29.12.1976, p. 1; Council Decision 80/48/EEC, OJ No L 18, 24.1.1980, p. 21; Council Regulation (EEC) No 4059/89, OJ No L 390, 30.12.1989, p. 3) the Contracting Parties shall, in accordance with the jointly agreed procedures, take a decision concerning an amendment of the relevant Annex, allowing carriers of the Contracting Parties reciprocal and mutual access to the market in transport of goods by road on equal terms.

For the duration of the Agreement between the European Communities and Austria on transport of goods by road and rail, future amendments of the present Agreement shall not affect the existing mutual rights for market access referred to in Article 16 of the Agreement between the European Communities and Austria on transport of goods by road and rail, and as set out in the bilateral Agreements between Austria on the one hand and Finland, Norway, Sweden and Switzerland on the other hand, unless otherwise agreed by the Parties concerned.

#### JOINT DECLARATION

concerning rules on competition

The Contracting Parties declare that the implementation of the EEA competition rules, in cases falling within the responsibility of the EC Commission, is based on the existing Community competences, supplemented by the provisions contained in the Agreement. In cases falling within the responsibility of the EFTA Surveillance Authority, the implementation of the EEA competition rules is based on the agreement establishing that authority as well as on the provisions contained in the EEA Agreement.

#### JOINT DECLARATION

on Article 61(3)(b) of the Agreement

The Contracting Parties declare that in establishing whether a derogation can be granted under Article 61(3)(b) the EC Commission shall take the interest of the EFTA States into account and the EFTA Surveillance Authority shall take the interest of the Community into account.

#### JOINT DECLARATION

on Article 61(3)(c) of the Agreement

The Contracting Parties take note that even if eligibility of the regions has to be denied in the context of Article 61(3)(a) and according to the criteria of the first stage of analysis under subparagraph (c) (see Commission communication on the method for the application of Article 92(3)(a) and (c) to regional aid, OJ No C 212, 12.8.1988, p. 2) examination according to other criteria, e.g. very low population density, is possible.

#### JOINT DECLARATION

on aid granted through the EC structural Funds or other financial instruments

The Contracting Parties declare that financial support to undertakings financed by the EC structural Funds or receiving assistance from the European Investment Bank or from any other similar financial instrument or fund shall be in keeping with the provisions of this Agreement on State aid. They declare that exchange of information and views on these forms of aid shall take place at the request of either surveillance authority.

#### JOINT DECLARATION

on paragraph (c) of Protocol 27 to the Agreement

The notice referred to in paragraph (c) of Protocol 27 shall contain a description of the State aid programme or case concerned, including all elements which are necessary for a proper evaluation of the programme or case (depending on the State aid elements concerned, such as type of State aid, budget, beneficiary, duration). Moreover, the reasons for the opening of the procedure referred to in Article 93(2) of the Treaty establishing the European Economic Community or of the corresponding procedure set out in an agreement between the EFTA States establishing the EFTA Surveillance Authority shall be communicated to the other surveillance authority. Exchange of information between the two surveillance authorities shall take place on a reciprocal basis.

#### JOINT DECLARATION

on shipbuilding

The Contracting Parties agree that, until the expiry of the Seventh Shipbuilding Directive (i.e. at the end of 1993), they will refrain from the application of the general rules on State aid laid down in Article 61 of the Agreement to the sector of shipbuilding.

Article 62(2) of the Agreement as well as the Protocols referring to State aid are applicable to the sector of shipbuilding.

#### JOINT DECLARATION

on applicable procedures in cases where, by virtue of Article 76 and Part VI of the Agreement and corresponding Protocols, EFTA States participate fully in EC committees

The EFTA States shall have the same rights and obligations as EC Member States within EC committees in which they participate fully, by virtue of Article 76 and Part VI of the Agreement and the corresponding Protocols, except in respect of voting procedures, if any. In reaching its decision, the EC Commission shall take due account of the views expressed by the EFTA States in the same manner as of the views expressed by the EC Member States before voting.

In cases where the EC Member States have the possibility of appealing to the EC Council against the decision of the EC Commission, the EFTA States may raise the issue in the [EEA](#) Joint Committee in conformity with Article 5 of the Agreement.

#### JOINT DECLARATION

on cooperation in cultural affairs

The Contracting Parties, having regard to their cooperation within the Council of Europe, recalling the Declaration of 9 April 1984 from the Ministerial meeting in Luxembourg between the European Community and its Member States and the States of the European Free Trade Association, mindful that the establishment of the free movement of goods, services, capital and persons within the [EEA](#) will have a significant impact in the field of culture, declare their intention to strengthen and broaden cooperation in the area of cultural affairs, in order to contribute to a better understanding between the peoples of a multicultural Europe and to safeguard and further develop the national and regional heritage that enriches European culture by its diversity.

#### JOINT DECLARATION

on cooperation against illegal traffic in cultural goods

The Contracting Parties declare their willingness to establish cooperation arrangements and procedures against illegal traffic in cultural goods as well as arrangements concerning the management of the regime for regular traffic in cultural goods.

Without prejudice to the provisions of the [EEA](#) Agreement and other international obligations, these arrangements and procedures shall take into account the legislation which the Community is developing in this field.

#### JOINT DECLARATION

on the association of Community experts with the work of committees among the EFTA States or set up by the EFTA Surveillance Authority

Having regard to the association of experts of the EFTA States with the work of the EC committees listed in Protocol 37 to the Agreement, Community experts shall on the same basis be associated, at the request of the Community, with the work of any corresponding bodies among the EFTA States or set up by the EFTA Surveillance Authority relating to the same subject matter as covered by the EC committees listed in Protocol 37.

#### JOINT DECLARATION

on Article 103 of the Agreement

It is the understanding of the Contracting Parties that the reference to the fulfilment of constitutional requirements contained in Article 103(1) of the Agreement and the reference to provisional application contained in Article 103(2) have no practical implications for internal Community procedures.

#### JOINT DECLARATION

on Protocol 35 to the Agreement

It is the understanding of the Contracting Parties that Protocol 35 does not restrict the effects of those existing internal rules which provide for direct effect and primacy of international agreements.

#### JOINT DECLARATION

concerning the Financial Mechanism

Should an EFTA Contracting Party withdraw from EFTA and accede to the Community, appropriate arrangements should be made to ensure that no additional financial obligations are, as a result, incurred by the remaining EFTA States. The Contracting Parties note in this regard the decision by the EFTA States to calculate their respective contributions to the Financial Mechanism based on the GNP at market price data for the three most recent years. As regards any acceding EFTA State, appropriate and equitable solutions should be found in the context of the accession negotiations.

---

**JOINT DECLARATION**

on the relation between the [EEA](#) Agreement and existing agreements

The [EEA](#) Agreement shall not affect rights assured through existing agreements binding one or more EC Member States, on the one hand, and one or more EFTA States, on the other, or two or more EFTA States, such as among other agreements concerning individuals, economic operators, regional cooperation and administrative arrangements, until at least equivalent rights have been achieved under the Agreement.

**JOINT DECLARATION**

on the agreed interpretation of Article 4(1) and (2) of Protocol 9 on trade in fish and other marine products

1. While the EFTA States will not take over the 'acquis communautaire' concerning the fishery policy, it is understood that, where reference is made to aid granted through State resources, any distortion of competition is to be assessed by the Contracting Parties in the context of Articles 92 and 93 of the EEC Treaty and in relation to relevant provisions of the 'acquis communautaire' concerning the fishery policy and the content of the Joint Declaration regarding Article 61(3)(c) of the Agreement.

2. While the EFTA States will not take over the 'acquis communautaire' concerning the fishery policy, it is understood that, where reference is made to legislation relating to the organization of the market, any distortion of competition caused by such legislation is to be assessed in relation to the principles of the 'acquis communautaire' concerning the common organization of the market.

Whenever an EFTA State maintains or introduces national provisions on market organization in the fisheries sector, such provisions shall be considered a priori to be compatible with the principles, referred to in the first subparagraph, if they contain at least the following elements:

- (a) the legislation on producers' organizations reflects the principles of the 'acquis communautaire' regarding:
  - establishment on the producers' initiative;
  - freedom to become and cease to be a member;
  - absence of a dominant position, unless necessary in pursuance of objectives corresponding to those specified in Article 39 of the EEC Treaty;
- (b) whenever the rules of producers' organizations are extended to non-members of producers' organizations, the provisions to be applied correspond to those laid down in Article 7 of Regulation (EEC) No 3687/91;
- (c) whenever provisions in respect of interventions to support prices exist or are established, they correspond to those specified in Title III of Regulation (EEC) No 3687/91.

**JOINT DECLARATION**

concerning the application of tariff concessions for certain agricultural products

The Contracting Parties declare that in the case of tariff concessions granted for the same product, both under Protocol 3 to the Agreement and under a bilateral agreement on trade in agricultural products as referred to in Protocol 42 to the abovementioned Agreement, the more advantageous tariff treatment shall be granted upon submission of the relevant documentation.

This is without prejudice to the obligations resulting from Article 16 of the Agreement.

---

**JOINT DECLARATION**

on plant health issues

The Contracting Parties state that the existing Community acts in this area are under review. Therefore, this legislation will not be taken over by the EFTA States. New rules will be dealt with according to Articles 99 and 102 of the Agreement.

**JOINT DECLARATION**

on mutual assistance between control authorities in the area of spirit drinks

The Contracting Parties agree that any future EC legislation on mutual assistance in the area of spirit drinks between the competent authorities of EC Member States, relevant for this Agreement, shall be dealt with according to the general provisions on decision-making of the Agreement.

**JOINT DECLARATION**

on Protocol 47 on the abolition of technical barriers to trade in wine

The adaptation concerning the use of the terms 'Federweiss` and 'Federweisser` as provided for in the Appendix to Protocol 47, shall be without prejudice to any future modifications of the relevant Community legislation where provisions may be introduced regulating the use of the same terms and their equivalents for wine produced in the Community.

The classification of EFTA States' wine-producing regions in wine-growing zone B for the purposes of this Agreement, shall not prejudice any future modifications of the Community's classification scheme which may have a subsequent impact on the classification within the framework of the Agreement. Any such modifications shall be dealt with in accordance with the general provisions of the Agreement.

**JOINT DECLARATION**

on modification of tariff concessions and on special treatment of Spain and Portugal

A full implementation of the system outlined in Protocol 3 depends in some Contracting Parties on amendments to the national price compensation system. These amendments are not possible without the modification of tariff concessions. Such modifications would not imply the need for compensation between the Contracting Parties of the [EEA](#) Agreement.

The system outlined in Protocol 3 does not preclude the application of the relevant transitional provisions of the Act of Accession of Spain and Portugal and shall not result in the Community, in its composition as of 31 December 1985, granting Contracting Parties to the [EEA](#) Agreement a more favourable treatment than the one applied to the new EC Member States. In particular, the application of this system does not preclude the application of the accession price compensatory amounts established in application of the Act of Accession of Spain and Portugal.

**JOINT DECLARATION**

on animal welfare

Notwithstanding the provisions of point 2, Chapter I (veterinary issues) of Annex I to the Agreement, the Contracting Parties note the new development of the Community legislation in this area and agree to consult each other in case differences in their legislations concerning animal welfare constitute barriers to the free movement of goods. The Contracting Parties agree to monitor the situation in this area.

**JOINT DECLARATION**

on the Harmonized System

---

The Contracting Parties agree to harmonize as soon as possible, and by 31 December 1992 at the latest, the German text of the description of goods in the Harmonized System, contained in the relevant Protocols and Annexes to the [EEA](#) Agreement.

#### DECLARATION

by the Governments of the Member States of the EC and the EFTA States on the facilitation of border controls

In order to promote the free movement of persons, the Member States of the EC and the EFTA States shall, subject to the practical modalities to be defined in appropriate fora, cooperate with a view to the facilitation of controls for each other's citizens and the members of their families at borders between their territories.

#### DECLARATION

by the Governments of the Member States of the EC and the EFTA States on political dialogue

The European Community and its Member States and the Member States of the European Free Trade Association expressed their wish to strengthen their political dialogue on foreign policy with the view to developing closer relations in spheres of mutual interest.

They agreed to that end:

- to hold informal exchanges of view at ministerial level at meetings of the [EEA](#) Council. As appropriate these exchanges of view could be prepared by meetings at political directors' level;
- to make full use of existing diplomatic channels, in particular the diplomatic representations in the capital of the country holding the EC Presidency, in Brussels and in the capitals of the EFTA Countries;
- to consult informally at conferences and in international organizations;
- that this will in no way affect or replace existing bilateral contacts in this field.

#### INTERIM ARRANGEMENT TO PREPARE FOR THE ORDERLY ENTRY INTO FORCE OF THE AGREEMENT

Brussels,

#### COMMISSION OF THE EUROPEAN COMMUNITIES

Directorate-General External Relations

The Director-General

Mr H. Hafstein,

Ambassador,

Head of the EFTA Delegation,

EFTA Secretariat,

Rue Arlon 118,

1040-Brussels.

Dear Mr Hafstein,

I refer to our discussions concerning the [EEA](#) interim phase and understand that we agree to set up an interim arrangement to prepare for the orderly entry into force of the Agreement.

---

Under this arrangement, the structures and procedures established during the EEA negotiations will be maintained. A High-Level Interim Group assisted by expert interim groups, analogous to the previous High-Level Negotiating Group and the negotiating groups, composed by representatives of the Community and of the EFTA States, will inter alia examine in the EEA context Community 'acquis' issued between 1 August 1991 and the entry into force of the Agreement. Consensus will be recorded and finalized either in Additional Protocols to be attached to the EEA Agreement, or in appropriate decisions by the EEA Joint Committee after the entry into force of the Agreement. Any substantial negotiating problems arising under the interim arrangement will be dealt with by the EEA Joint Committee after the entry into force of the Agreement.

It being understood that the information and consultation procedures of the EEA Agreement can only be applied after the latter's entry into force, the Community will inform the EFTA States during the interim phase on proposals for new Community 'acquis' after they have been submitted to the EC Council of Ministers.

I would be grateful for confirmation of your agreement on this interim arrangement.

Yours sincerely,

(s.) Horst G. KRENZLER

ICELANDIC MISSION to the EUROPEAN COMMUNITIES

Rue Archimède 5

1040 Bruxelles

Brussels,

Dear Mr Krenzler,

I hereby acknowledge receipt today of your letter which reads as follows:

I refer to our discussions concerning the EEA interim phase and understand that we agree to set up an interim arrangement to prepare for the orderly entry into force of the Agreement.

Under this arrangement, the structures and procedures established during the EEA negotiations will be maintained. A High-Level Interim Group, assisted by expert interim groups, analogous to the previous High-Level Negotiating Group and the negotiating groups, composed by representatives of the Community and of the EFTA States, will inter alia examine in the EEA context Community "acquis" issued between 1 August 1991 and the entry into force of the Agreement. Consensus will be recorded and finalized either in Additional Protocols to be attached to the EEA Agreement, or in appropriate decisions by the EEA Joint Committee after the entry into force of the Agreement. Any substantial negotiating problems arising under the interim arrangement will be dealt with by the EEA Joint Committee after the entry into force of the Agreement.

It being understood that the information and consultation procedures of the EEA Agreement can only be applied after the latter's entry into force, the Community will inform the EFTA States during the interim phase on proposals for new Community "acquis" after they have been submitted to the EC Council of Ministers.

I would be grateful for confirmation of your agreement on this interim arrangement.`

I have the honour to confirm my agreement on this interim arrangement.

Yours sincerely,

(s.) Hannes HAFSTEIN

Ambassador

Head of the Icelandic Mission to the European Communities

ARRANGEMENT WITH REGARD TO PUBLICATION OF [EEA](#) RELEVANT INFORMATION

ICELANDIC MISSION to the EUROPEAN COMMUNITIES

Rue Archimède 5

1040 Bruxelles

Brussels,

Subject: Publication of [EEA](#) relevant information

Sir,

With regard to publication of [EEA](#) relevant information to be published after the entry into force of the [EEA](#) Agreement, I have the honour to summarize the agreement we have reached as follows.

There will be a coordinated system consisting of the Official Journal of the EC and a special [EEA](#) supplement thereto. Where information to be published both for the EC and the EFTA States is identical, publication by the EC in the Official Journal of the EC will serve at the same time as publication in the three common EC/EFTA languages, while the information in the remaining four EFTA languages (Finnish, Icelandic, Norwegian and Swedish) will be published in the [EEA](#) supplement to the Official Journal of the EC. The EFTA States undertake to provide an appropriate infrastructure in order to ensure the timely availability of the necessary translations into the four non-EC/EFTA languages. The EFTA States will be responsible for producing the material for the production of the [EEA](#) supplement.

The publication system would contain the following elements:

- (a) Decisions of the [EEA](#) Joint Committee relating to the 'acquis` and other decisions, acts, notices, etc., by the [EEA](#) organs

The decisions of the [EEA](#) Joint Committee relating to the 'acquis` shall be published in the nine official languages in a special [EEA](#) section of the Official Journal of the EC. That publication will serve as publication in relation to the three common languages. These decisions will also be published in the [EEA](#) supplement in the official languages of the Nordic EFTA States and, under the responsibility of the EFTA States, possibly, for information, in the EFTA working language.

The same applies to other decisions, acts, notices, etc., by the [EEA](#) organs, in particular the [EEA](#) Council and the [EEA](#) Joint Committee.

As concerns decisions by the [EEA](#) Joint Committee relating to the 'acquis`, the table of contents of the [EEA](#) section will contain references to where the relevant internal EC texts can be found.

- (b) EFTA data with EC relevance

Information emanating from the EFTA States, the EFTA Surveillance Authority, the Standing Committee of the EFTA States and the EFTA Court regarding, for example, competition, State aid, public procurement and technical standards will be published in the nine official languages of the EC in a special [EEA](#) section of the Official Journal of the EC. That publication will also serve as publication for the EFTA States for the three common languages whereas the other four EFTA languages will be produced in the [EEA](#) supplement. Where relevant, the table of contents of the [EEA](#) section and the [EEA](#) supplement, respectively, will contain references to where the corresponding information emanating from the EC and its Member States can be found.

(c) EC data with EFTA relevance

Information emanating from the EC and its Member States regarding, for example, competition, State aid, public procurement and technical standards will be published in the nine official languages of the EC in the Official Journal of the EC. That publication will also serve as publication for the EFTA States for the three common languages whereas the other four EFTA languages will be produced in the [EEA](#) supplement. Where relevant, reference will be made to where the corresponding information emanating from the EFTA States, the EFTA Surveillance Authority, the Standing Committee of the EFTA States and the EFTA Court can be found.

The financial aspects of the publication system will be the subject of a separate arrangement.

I should be obliged if you would confirm that you are in agreement with the above.

Please accept, Sir, the assurance of my highest consideration.

(s.) Hannes HAFSTEIN

Ambassador

Head of the Icelandic Mission to the European Communities

Mr Horst G. Krenzler

Director-General

Commission of the European Communities

Directorate-General I

Avenue d'Auderghem 35

Brussels

Brussels,

COMMISSION OF THE EUROPEAN COMMUNITIES

Directorate-General External Relations

The Director-General

Mr H. Hafstein,

Ambassador,

Head of the EFTA Delegation,

EFTA Secretariat,

Rue Arlon 118,

1040-Brussels.

Sir,

I hereby acknowledge receipt today of your letter which reads as follows:

'With regard to publication of [EEA](#) relevant information to be published after the entry into force of the [EEA](#) Agreement, I have the honour to summarize the agreement we have reached as follows.

There will be a coordinated system consisting of the Official Journal of the EC and a special [EEA](#) supplement thereto. Where information to be published both for the EC and the EFTA States is identical, publication by the EC in the Official Journal of the EC will serve at the same

time as publication in the three common EC/EFTA languages, while the information in the remaining four EFTA languages (Finnish, Icelandic, Norwegian and Swedish) will be published in the [EEA](#) supplement to the Official Journal of the EC. The EFTA States undertake to provide an appropriate infrastructure in order to ensure the timely availability of the necessary translations into the four non-EC/EFTA languages. The EFTA States will be responsible for producing the material for the production of the [EEA](#) supplement.

The publication system would contain the following elements:

- (a) Decisions of the [EEA](#) Joint Committee relating to the "acquis" and other decisions, acts, notices, etc., by the [EEA](#) organs

The decisions of the [EEA](#) Joint Committee relating to the "acquis" shall be published in the nine official languages in a special [EEA](#) section of the Official Journal of the EC. That publication will serve as publication in relation to the three common languages. These decisions will also be published in the [EEA](#) supplement in the official languages of the Nordic EFTA States and, under the responsibility of the EFTA States, possibly, for information, in the EFTA working language.

The same applies to other decisions, acts, notices, etc., by the [EEA](#) organs, in particular the [EEA](#) Council and the [EEA](#) Joint Committee.

As concerns decisions by the [EEA](#) Joint Committee relating to the "acquis", the table of contents of the [EEA](#) section will contain references to where the relevant internal EC texts can be found.

- (b) EFTA data with EC relevance

Information emanating from the EFTA States, the EFTA Surveillance Authority, the Standing Committee of the EFTA States and the EFTA Court regarding, for example, competition, State aid, public procurement and technical standards will be published in the nine official languages of the EC in a special [EEA](#) section of the Official Journal of the EC.

That publication will also serve as publication for the EFTA States for the three common languages whereas the other four EFTA languages will be produced in the [EEA](#) supplement. Where relevant, the table of contents of the [EEA](#) section and the [EEA](#) supplement, respectively, will contain references to where the corresponding information emanating from the EC and its Member States can be found.

- (c) EC data with EFTA relevance

Information emanating from the EC and its Member States regarding, for example, competition, State aid, public procurement and technical standards will be published in the nine official languages of the EC in the Official Journal of the EC. That publication will also serve as publication for the EFTA States for the three common languages whereas the other four EFTA languages will be produced in the [EEA](#) supplement. Where relevant, reference will be made to where the corresponding information emanating from the EFTA States, the EFTA Surveillance Authority, the Standing Committee of the EFTA States and the EFTA Court can be found.

The financial aspects of the publication system will be the subject of a separate arrangement.

I should be obliged if you would confirm that you are in agreement with the above.`

I have the honour to confirm my agreement to the above.

Please accept, Sir, the assurance of my highest consideration.

- (s.) Horst G. KRENZLER

ARRANGEMENT REGARDING THE PUBLICATION OF EFTA NOTICES ON PROCUREMENT

Brussels,

COMMISSION OF THE EUROPEAN COMMUNITIES

Directorate-General External Relations

The Director-General

Mr H. Hafstein,

Ambassador,

Head of the EFTA Delegation,

EFTA Secretariat,

Rue Arlon 118,

1040-Brussels.

Subject: Publication of EFTA notices on procurement

Dear Mr Hafstein,

With regard to the publication of the EFTA notices in the Official Journal of the EC as provided for in Annex XVI to the [EEA](#) Agreement and in particular in paragraph 2(a) and (b) thereof, I have the honour to summarize the agreement we have reached as follows:

- (a) the EFTA notices shall be sent, in at least one of the Community languages, to the Office for Official Publications of the European Communities (OPOCE); the notice shall specify in which EC language the notice shall be considered as authentic;
- (b) the OPOCE shall publish the notice which is considered as being authentic, in full, in the Official Journal and in the TED databank; a summary of the important elements shall be published in the other official languages of the Community;
- (c) the EFTA notices shall be published, by the OPOCE, in the S-series of the EC Official Journal along with EC notices and within the time limits provided for in the acts referred to in Annex XVI;
- (d) the EFTA States undertake to ensure that notices shall be transmitted to the OPOCE in an official language of the Community in good time so that, provided the obligation of the OPOCE to translate the notices into the official languages of the Community and to publish them in the Official Journal and in TED within a period of 12 days (in urgent cases five days) is respected, the time available to suppliers and contractors to present bids or expressions of interest shall not be reduced with respect to the time limits referred to in Annex XVI;
- (e) the EFTA notices shall be sent in the format of the model notices annexed to the acts referred to in Annex XVI; however, with a view to setting up an efficient and timely system of translation and publication, the EFTA States take note that they are recommended to set up standardized notices for each of their States along the lines of those recommended for each of the 12 Member States in Recommendation 91/561/EEC of 24 October 1991 (1);
- (f) the contracts signed in 1988 and 1989 by the EC Commission acting through the OPOCE and the respective designated contractors of Sweden, Norway, Finland, Switzerland and Austria on the publication of EFTA supply contracts covered by the GATT Agreement on Government Procurement shall be terminated by the time the [EEA](#) Agreement enters into force;
- (g) the financial aspects of this publication system shall be subject to the separate arrangement which will be set up for all the other publications relevant to the [EEA](#).

---

I should be obliged if you would confirm that you are in agreement with the above.

Yours sincerely,

(s.) Horst G. KRENZLER

ICELANDIC MISSION to the EUROPEAN COMMUNITIES

Rue Archimède 5

1040 Bruxelles

Brussels,

Sir,

I hereby acknowledge receipt today of your letter reading as follows:

'Subject: Publication of EFTA notices on procurement

With regard to the publication of the EFTA notices in the Official Journal of the EC as provided for in Annex XVI to the [EEA](#) Agreement and in particular in paragraph 2(a) and (b) thereof, I have the honour to summarize the agreement we have reached as follows:

- (a) the EFTA notices shall be sent, in at least one of the Community languages, to the Office for Official Publications of the European Communities (OPOCE); the notice shall specify in which EC language the notice shall be considered as authentic;
- (b) the OPOCE shall publish the notice which is considered as being authentic, in full, in the Official Journal and in the TED databank; a summary of the important elements shall be published in the other official languages of the Community;
- (c) the EFTA notices shall be published, by the OPOCE, in the S-series of the EC Official Journal along with EC notices and within the time limits provided for in the acts referred to in Annex XVI;
- (d) the EFTA States undertake to ensure that notices shall be transmitted to the OPOCE in an official language of the Community in good time so that, provided the obligation of the OPOCE to translate the notices into the official languages of the Community and to publish them in the Official Journal and in TED within a period of 12 days (in urgent cases five days) is respected, the time available to suppliers and contractors to present bids or expressions of interest shall not be reduced with respect to the time limits referred to in Annex XVI;
- (e) the EFTA notices shall be sent in the format of the model notices annexed to the acts referred to in Annex XVI; however, with a view to setting up an efficient and timely system of translation and publication, the EFTA States take note that they are recommended to set up standardized notices for each of their States along the lines of those recommended for each of the 12 Member States in Recommendation 91/561/EEC of 24 October 1991 (1);
- (f) the contracts signed in 1988 and 1989 by the EC Commission acting through the OPOCE and the respective designated contractors of Sweden, Norway, Finland, Switzerland and Austria on the publication of EFTA supply contracts covered by the GATT Agreement on Government Procurement shall be terminated by the time the [EEA](#) Agreement enters into force;
- (g) the financial aspects of this publication system shall be subject to the separate arrangement which will be set up for all the other publications relevant to the [EEA](#).

I should be obliged if you would confirm that you are in agreement with the above.

- (1) OJ No L 305, 6.11.1991 and OJ No S 217 A-N, 16.11.1991.

I have the honour to confirm my agreement to the above.

Yours faithfully,

(s.) Hannes HAFSTEIN

Ambassador

Head of the Icelandic Mission to the European Communities

Mr Horst G. Krenzler

Director-General

(1) OJ No L 305, 6.11.1991 and OJ No S 217 A-N, 16.11.1991.

AGREED MINUTES of the negotiations for an Agreement between the European Economic Community, the European Coal and Steel Community and their Member States and the EFTA States on the European Economic Area

The Contracting Parties agreed that:

Ad Article 26 and Protocol 13

before the entry into force of the Agreement the Community shall, together with the interested EFTA States, examine whether the conditions are fulfilled in which Article 26 of the Agreement, irrespective of the provisions set forth in the first paragraph in Protocol 13, will apply between the Community and the EFTA States concerned in the fisheries sector;

Ad Article 56(3)

the word 'appreciable' in Article 56(3) of the Agreement is understood to have the meaning it has in the Commission Notice of 3 September 1986 on agreements of minor importance which do not fall under Article 85(1) of the Treaty establishing the European Economic Community (OJ No C 231, 12.9.1986, p. 2);

Ad Article 90

the rules of procedure of the [EEA](#) Council will make it clear that, when taking decisions, EFTA Ministers speak with one voice;

Ad Article 91

the [EEA](#) Council shall, if necessary, provide in its rules of procedure for the possibility of establishing any subcommittee or working party;

Ad Article 91(2)

the rules of procedure of the [EEA](#) Council will make it clear that the words 'whenever circumstances so require', in Article 91(2), cover the situation where a Contracting Party makes use of its 'droit d'évocation' in conformity with Article 89(2);

Ad Article 94(3)

it is understood that the [EEA](#) Joint Committee will at one of its first meetings, when adopting its rules of procedure, decide on the setting-up of subcommittees or working groups particularly needed to assist it in carrying out its tasks, e.g. in the field of origin and other customs matters;

Ad Article 102(5)

in the case of a provisional suspension under Article 102(5) the scope and entry into force thereof

---

shall be adequately published;

Ad Article 102(6)

Article 102(6) applies only to actually acquired rights but not to expectations only. Some examples of such acquired rights would be:

- a suspension relating to free movement of workers will not affect the right of a worker to remain in a Contracting Party he had moved to already before the rules were suspended;
- a suspension relating to freedom of establishment will not affect the rights of a company in a Contracting Party in which it had established itself already before the rules were suspended;
- a suspension relating to investment, e.g. in real estate, will not affect investments made already before the date of suspension;
- a suspension relating to public procurement will not affect the execution of a contract awarded already before the suspension;
- a suspension relating to the recognition of a diploma shall not affect the right of a holder of such a diploma to continue his professional activities thereunder in a Contracting Party not having awarded the diploma;

Ad Article 103

if a decision is adopted by the [EEA](#) Council, Article 103(1) shall apply;

Ad Article 109(3)

the term 'application` in Article 109(3) also covers implementation of the Agreement;

Ad Article 111

suspension is not in the interest of the good functioning of the Agreement and all efforts should be made to avoid it;

Ad Article 112(1)

the provisions of Article 112(1) also cover the situation in a given area;

Ad Article 123

they would not make improper use of provisions in Article 123 to prevent the disclosure of information in the field of competition;

Ad Article 129

should any one of them not be prepared to ratify the Agreement, the signatories shall review the situation;

Ad Article 129

should any one of them not ratify the Agreement, the remaining Contracting Parties shall convene a diplomatic conference to assess the effects of the non-ratification for the Agreement and to examine the possibility of adopting a Protocol containing the amendments which will be subject to necessary internal procedures. Such a conference shall be convened as soon as it has become clear that one of the Contracting Parties will not ratify the Agreement or at the latest if the date of entry into force of the Agreement is not respected;

Ad Protocol 3

Appendices 2 to 7 will be completed before the entry into force of the Agreement; Appendices 2

to 7 shall be worked out as soon as possible and in any case before 1 July 1992. With regard to Appendix 2 experts shall work out a list of raw materials subject to price compensation on the basis of raw materials subject to price compensation measures in the Contracting Parties prior to the entry into force of the Agreement;

Ad Protocol 3, Article 11

with a view to facilitating the application of Protocol No 2 of the Free Trade Agreements, the provisions of Protocol No 3 to each of these Free Trade Agreements concerning the definition of the concept of 'originating products' and methods of administrative cooperation shall be amended before the entry into force of the EEA Agreement. These amendments shall aim at bringing the abovementioned provisions, inter alia those concerning proof of origin and administrative cooperation, as much in line with those of Protocol 4 of the EEA Agreement as possible while maintaining the 'diagonal' cumulation system and the corresponding provisions currently applicable in the framework of Protocol No 3. It is thus understood that these amendments shall not modify the degree of liberalization achieved under the Free Trade Agreements;

Ad Protocol 9

before the entry into force of the Agreement, the Community and the interested EFTA States shall continue their discussions of legislative adaptations in relation to the issue of transit of fish and fishery products in order to find a satisfactory arrangement;

Ad Protocol 11, Article 14(3)

the Community, while fully complying with the coordination role of the Commission, will develop direct contacts, as set out in the Commission working document XX1/201/89, where this may grant flexibility and efficiency to the functioning of this Protocol, in so far as this is on a reciprocal basis;

Ad Protocol 16 and Annex VI

the possibility of maintaining bilateral agreements in the area of social security after the expiration of the transitional periods relating to free movement of persons can be discussed bilaterally between Switzerland and the interested States;

Ad Protocol 20

the Contracting Parties shall, within the framework of the international organizations concerned, elaborate the rules for the application of structural improvement measures to the Austrian fleet, taking into account the extent to which this fleet will participate in the market for which the structural improvement measures were designed. Due account shall be paid to the date by which the obligations of Austria under the structural improvement measures become effective;

Ad Protocols 23 and 24 (Articles 12 concerning languages)

the EC Commission and the EFTA Surveillance Authority will provide for practical arrangements for mutual assistance or any other appropriate solution concerning in particular the question of translations;

Ad Protocol 30

the following EC committees in the field of statistical information have been identified as being committees in which the EFTA States shall participate fully in accordance with Article 2 of this Protocol:

1. Committee on the Statistical Programmes of the European Communities

as established in:

389 D 0382: Council Decision 89/382/EEC, Euratom of 19 June 1989 establishing a Committee on the Statistical Programmes of the European Communities (OJ No L 181, 28.6.1989, p. 47);

2. Committee on Monetary, Financial and Balance-of-Payments Statistics

as established in:

391 D 0115: Council Decision 91/115/EEC of 25 February 1991 establishing a Committee on monetary, financial and balance-of-payments statistics (OJ No L 59, 6.3.1991, p. 19);

3. Committee on Statistical Confidentiality

as established in:

390 R 1588: Council Regulation (Euratom, EEC) No 1588/90 of 11 June 1990 on the transmission of data subject to statistical confidentiality to the Statistical Office of the European Communities (OJ No L 151, 15.6.1990, p. 1);

4. Committee on the Harmonization of the Compilation of GNP at Market Prices

as established in:

389 L 0130: Council Directive 89/130/EEC, Euratom of 13 February 1989 on the harmonization of gross national product at market prices (OJ No L 49, 21.2.1989, p. 26);

5. Advisory Committee on Economic and Social Statistics

as established in:

391 D 0116: Council Decision 91/116/EEC of 25 February 1991 setting up the European Advisory Committee on Statistical Information in the economic and social spheres (OJ No L 59, 6.3.1991, p. 21).

The EFTA States' rights and obligations in the said EC committees are governed by the Joint Declaration on applicable procedures in cases where, by virtue of Article 76 and Part VI of the Agreement and the corresponding Protocols, EFTA States participate fully in EC committees;

Ad Protocol 36, Article 2

the EFTA States will, before the entry into force of the Agreement, decide on the number of members from each of their Parliaments in the [EEA](#) Joint Parliamentary Committee;

Ad Protocol 37

in accordance with Article 6 of Protocol 23, the reference to the Advisory Committee on Restrictive Practices and Dominant Positions (Council Regulation No 17/62) also covers:

- the Advisory Committee on Restrictive Practices and Monopolies in the Transport Industry (Council Regulation (EEC) No 1017/68);
- the Advisory Committee on Agreements and Dominant Positions in the Maritime Transport (Council Regulation (EEC) No 4056/86);
- the Advisory Committee on Agreements and Dominant Positions in the Air Transport (Council Regulation (EEC) No 3975/87);

Ad Protocol 37

in application of the review clause in Article 101(2) of the Agreement, one more committee will be added, at the entry into force of the Agreement, to the list contained in Protocol 37:

---

Coordinating Group on Mutual Recognition of Higher-Education Diplomas (Council Directive 89/48/EEC).

The modalities of participation will be specified;

Ad Protocol 47

they will elaborate a system for mutual assistance between authorities responsible for ensuring compliance with Community and national provisions in the wine sector on the basis of the relevant provisions of Council Regulation (EEC) No 2048/89 of 19 June 1989 laying down general rules on controls in the wine sector. The modalities for this mutual assistance will be established before the entry into force of the Agreement. Until such a system has been established, the relevant provisions of the bilateral agreements between the Community and Switzerland and the Community and Austria on cooperation and control in the wine sector shall prevail;

Ad Annexes VI and VII

further specific adaptations as described in an NG III document dated 11 November 1991 have still to be made before the entry into force of the [EEA](#) Agreement in the field of social security and mutual recognition of professional qualifications;

Ad Annex VII

from the entry into force of the [EEA](#) Agreement, no State to which this Agreement applies may invoke Article 21 of Council Directive 75/362/EEC of 16 June 1975 (OJ No L 167, 30.6.1975, p. 1) to require nationals from other States to which the Agreement applies to complete an additional preparatory training in order to become eligible for appointment as a doctor of a social security scheme;

Ad Annex VII

from the entry into force of the [EEA](#) Agreement, no State to which this Agreement applies may invoke Article 20 of Council Directive 78/686/EEC of 25 July 1978 (OJ No L 233, 24.8.1978, p. 1) to require nationals from other States to which the Agreement applies to complete an additional preparatory training in order to become eligible for appointment as a dental practitioner of a social security scheme;

Ad Annex VII

engineers of the Foundation of the Swiss Register of Engineers, Architects and Technicians (REG) are covered by Article 1(d), first subparagraph, of Council Directive 89/48/EEC of 21 December 1988 (OJ No L 19, 24.1.1989, p. 16) on a general system for the recognition of higher-education diplomas awarded on completion of professional education and training of at least three years' duration, in so far as they fulfil the provisions of Article 1(a) of this Directive;

Ad Annex IX

before 1 January 1993 Finland, Iceland and Norway shall each draw up a list of the non-life insurance undertakings that are exempt from the requirements of Articles 16 and 17 of Council Directive 73/239/EEC (OJ No L 228, 16.8.1973, p. 3) and shall communicate them to the other Contracting Parties;

Ad Annex IX

before 1 January 1993 Iceland shall draw up a list of the life insurance undertakings that are exempt from the requirements of Articles 18, 19 and 20 of Council Directive 79/267/EEC (OJ No L 63, 13.3.1979, p. 1), and shall communicate them to the other Contracting Parties;

Ad Annex XIII

---

they shall examine Council Directive 91/439/EEC of 29 July 1991 on driving licences, in accordance with the jointly agreed procedure, with a view to its inclusion in Annex XIII on transport;

Ad Annex XIII

the EFTA States which are Contracting Parties to the European Agreement concerning the work of crews of vehicles engaged in international road transport (AETR) shall, before the entry into force of the present Agreement, introduce the following reservation to the AETR: 'Transport operations between Contracting Parties to the EEA Agreement shall be regarded as national transport operations within the meaning of the AETR in so far as such operations do not pass in transit through the territory of a third State which is a Contracting Party to the AETR.' The Community shall take the necessary measures in order to bring about corresponding modifications in the reservations of the EC Member States;

Ad Annex XVI

It is understood that Article 100 of the Agreement shall apply to the committees in the field of public procurement.

DECLARATION

by the Governments of Finland, Iceland, Norway and Sweden on alcohol monopolies

Without prejudice to the obligations arising under the Agreement, Finland, Iceland, Norway and Sweden recall that their alcohol monopolies are based on important health and social policy considerations.

DECLARATION

by the Governments of Liechtenstein and Switzerland on alcohol monopolies

Without prejudice to the obligations arising under the Agreement, Switzerland and Liechtenstein declare that their alcohol monopolies are based on important agricultural, health and social policy considerations.

DECLARATION

by the European Community on mutual assistance in customs matters

The European Community and its Member States declare that they understand the last sentence of Article 11(1) of Protocol 11 on Mutual Assistance in Customs Matters as being covered by the provisions of Article 2(2) of this Protocol.

DECLARATION

by the Governments of the EFTA States on free circulation of light duty commercial vehicles

The free circulation, as defined in Annex II on technical regulations, standards, testing and certification, Part I (Motor vehicles), of light duty commercial vehicles from 1 January 1995 is accepted by the EFTA States on the understanding that new legislation will be applicable, by that date, in line with the other vehicle categories.

DECLARATION

by the Government of Liechtenstein on product liability

The Government of the Principality of Liechtenstein, with regard to Article 14 of Council Directive 85/374/EEC, declares that the Principality of Liechtenstein shall by the entry into force of this Agreement have introduced, to the extent necessary, legislation on nuclear accident protection equivalent to that afforded by international conventions.

## DECLARATION

by the Government of Liechtenstein on the specific situation of the country

The Government of the Principality of Liechtenstein,

Referring to paragraph 18 of the Joint Declaration of 14 May 1991 from the Ministerial meeting between the European Community, its Member States and the Countries of the European Free Trade Association;

Reaffirming the duty to ensure compliance with all provisions of the [EEA](#) Agreement and to apply them in good faith;

Expects that due regard will be paid under the [EEA](#) Agreement to the specific geographical situation of Liechtenstein;

Considers that a situation justifying the taking of the measures referred to in Article 112 of the [EEA](#) Agreement shall in particular be considered to exist if capital inflows from another Contracting Party are liable to endanger the access of the resident population to real estate, or in the case of an extraordinary increase in the number of nationals from the EC Member States or the other EFTA States, or in the total number of jobs in the economy, both in comparison with the number of the resident population.

## DECLARATION

by the Government of Austria on safeguards

Austria declares that due to the specific geographical situation, the available settlement area (particularly the land available for housing construction) is scarce above average in parts of Austria. Accordingly, disturbances on the real-estate market could eventually lead to serious economic, societal or environmental difficulties of a regional nature within the meaning of the safeguard clause contained in Article 112 of the [EEA](#) Agreement and require measures under this Article.

## DECLARATION

by the European Community

The European Community considers that the declaration by the Government of Austria on safeguards shall be without prejudice to the rights and obligations of the Contracting Parties under the Agreement.

## DECLARATION

by the Government of Iceland on the use of safeguard measures under the [EEA](#) Agreement

Due to the one-sided nature of its economy and the fact that its territory is sparsely populated, Iceland states its understanding that, without prejudice to the obligations arising under the Agreement, it may take safeguard measures if the application of the Agreement is to cause in particular:

- serious disturbances on the labour market through large-scale movements of labour into certain geographical areas, particular types of jobs, or branches of industry; or
- serious disturbances in the real-estate market.

## DECLARATION

by the Government of Switzerland on safeguard measures

For reasons of its particular geographical and demographic situation Switzerland states its understanding that it would have the possibility to take measures to limit the immigration from [EEA](#) countries in cases of imbalances of a demographic, social or ecological nature resulting from migratory movements

---

of EEA nationals.

DECLARATION

by the European Community

The European Community considers that the declaration by the Government of Switzerland on safeguard measures shall be without prejudice to the rights and obligations of the Contracting Parties under the Agreement.

DECLARATION

by the Government of Switzerland on the introduction of post-diploma studies in architecture at the higher technical colleges

By asking to insert the diplomas in architecture awarded by the Swiss higher technical colleges into Article 11 of Directive 85/384/EEC, the Swiss Confederation declares its willingness to establish a complementary post-diploma training of one year at academic level, sanctioned by an examination, in order to render the whole of the studies conform with the requirements of Article 4(1)(a). This complementary training will be introduced by the Federal Office for Industry and Labour by the beginning of the academic year 1995/96.

DECLARATION

by the Governments of Austria and Switzerland on audiovisual services

With reference to Council Directive 89/552/EEC of 3 October 1989 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities, the Government of Austria and the Government of Switzerland state that, in accordance with existing EC law, as interpreted by the Court of Justice of the European Communities, they will have the possibility of taking appropriate measures in case of delocalization for the purpose of circumvention of their domestic legislation.

DECLARATION

by the Governments of Liechtenstein and Switzerland on administrative assistance

With reference to the provisions of the Agreement on the European Economic Area dealing with cooperation between supervisory authorities in the field of financial services (banking, UCITS and trade in securities), the Governments of Liechtenstein and Switzerland underline the importance they attach to the principles of secrecy and speciality and state their understanding that information provided by their competent authorities will be treated by the receiving authorities according to those principles. Without prejudice to the cases specified in the relevant 'acquis', this means that:

- all persons working or having worked for the authorities receiving information shall be bound by professional secrecy. Information specified as confidential will be treated accordingly;
- competent authorities receiving confidential information may use it only for the performance of their duties as specified in the relevant 'acquis'.

DECLARATION

by the European Community

The European Community considers that the declaration made by the Governments of Switzerland and Liechtenstein on administrative assistance shall be without prejudice to the rights and obligations of the Contracting Parties under the Agreement.

## DECLARATION

by the Government of Switzerland on the use of the safeguard clause in connection with capital movements

Considering the fact that in Switzerland the supply of land for productive use is particularly low, that the foreign demand for real estate has been traditionally high and that, in addition, the share of the resident population living in its own property is low as compared to the rest of Europe, Switzerland states its understanding that it may in particular take safeguard measures if capital inflows originating from other Contracting Parties lead to disturbances in the real estate market which, inter alia, could endanger the access of the resident population to real estate.

## DECLARATION

by the European Community

The European Community considers that the declaration by the Government of Switzerland on the use of the safeguard clause in connection with capital movements, shall be without prejudice to the rights and obligations of the Contracting Parties under the Agreement.

## DECLARATION

by the Government of Norway on the direct enforceability of decisions by the EC institutions regarding pecuniary obligations addressed to enterprises located in Norway

The attention of the Contracting Parties is drawn to the fact that the present constitution of Norway does not provide for direct enforceability of decisions by the EC institutions regarding pecuniary obligations addressed to enterprises located in Norway. Norway acknowledges that such decisions should continue to be addressed directly to these enterprises and that they should fulfil their obligations in accordance with the present practice. The said constitutional limitations to direct enforceability of decisions by the EC institutions regarding pecuniary obligations do not apply to subsidiaries and assets in the territory of the Community belonging to enterprises located in Norway. If difficulties should arise, Norway is prepared to enter into consultations and work towards a mutually satisfactory solution.

## DECLARATION

by the European Community

The Commission will keep the situation referred to in Norway's unilateral declaration under constant review. It may at any time initiate consultations with Norway with a view to finding satisfactory solutions to such problems as may arise.

## DECLARATION

by the Government of Austria on the enforcement on its territory of decisions by EC institutions regarding pecuniary obligations

Austria declares that its obligation to enforce on its territory decisions by EC institutions which impose pecuniary obligations shall only refer to such decisions which are fully covered by the provisions of the [EEA Agreement](#).

## DECLARATION

by the European Community

The Community understands the Austrian declaration to mean that the enforcement of decisions imposing pecuniary obligations on undertakings will be ensured on Austrian territory to the extent that the decisions imposing such obligations are based - even if not exclusively - on provisions contained

in the [EEA](#) Agreement.

The Commission may at any time initiate consultations with the Government of Austria with a view to finding satisfactory solutions to such problems as may arise.

#### DECLARATION

by the European Community on shipbuilding

It is the agreed policy of the European Community to progressively reduce the level of contract-related production aid paid to shipyards. The Commission is working to bring down the level of the ceiling as far as and as fast as is consistent with the Seventh Directive (90/684/EEC).

The Seventh Directive expires at the end of 1993. In deciding whether a new Directive is necessary, the Commission will also review the competitive situation in shipbuilding throughout the [EEA](#) in the light of progress made towards the reduction or elimination of contract-related production aid. When conducting this review the Commission will closely consult with the EFTA States, taking due account of the results of efforts in a wider international context and with a view to creating conditions which ensure that competition is not distorted.

#### DECLARATION

by the Government of Ireland concerning Protocol 28 on intellectual property - international conventions

Ireland understands Article 5(1) of Protocol 28 as imposing a requirement on the Government of Ireland to undertake, subject to its constitutional requirements, to take all necessary steps to obtain adherence to the conventions listed.

#### DECLARATION

by the Governments of the EFTA States on the Charter of the Fundamental Social Rights of Workers

The Governments of the EFTA States share the view that enlarged economic cooperation must be accompanied by progress in the social dimension of integration, to be achieved in full cooperation with the social partners. The EFTA States wish actively to contribute to the development of the social dimension of the European Economic Area. They therefore welcome the strengthened cooperation in the social field with the Community and its Member States established under this Agreement. Recognizing the importance of guaranteeing, in this context, the fundamental social rights for workers within the whole [EEA](#), the abovementioned Governments endorse the principles and basic rights laid down in the Charter of the Fundamental Social Rights of Workers of 9 December 1989 recalling the principle of subsidiarity referred to therein. They note that, in the implementation of such rights, due regard must be given to the diversity of national practices, especially as regards the role of the social partners and collective agreements.

#### DECLARATION

by the Government of Austria on the implementation of Article 5 of Directive 76/207/EEC in respect of night-work

The Republic of Austria,

aware of the principle of equal treatment as laid down in the present Agreement;

in view of Austria's obligation under the present Agreement to incorporate the 'acquis communautaire' into the Austrian legal order;

considering other obligations undertaken by Austria under public international law;

having regard to the effects harmful to health of night-work and to the particular need of female

workers for protection;

declares its willingness to take account of the particular need of female workers' protection.

#### DECLARATION

by the European Community

The European Community considers that the unilateral declaration made by the Government of Austria on the implementation of Article 5 of Directive 76/207/EEC in respect of night-work shall be without prejudice to the rights and obligations of the Contracting Parties under the Agreement.

#### DECLARATION

by the European Community on the rights for the EFTA States before the EC Court of Justice

1. In order to reinforce the legal homogeneity within the [EEA](#) through the opening of intervention possibilities for EFTA States and the EFTA Surveillance Authority before the EC Court of Justice, the Community will amend Articles 20 and 37 of the Statute of the Court of Justice and the Court of First Instance of the European Communities.

2. In addition, the Community will take the necessary measures to ensure that EFTA States, in so far as the implementation of Articles 2(2)(b) and 6 of Protocol 24 to the [EEA](#) Agreement is concerned, will have the same rights as EC Member States under Article 9(9) of Regulation (EEC) No 4064/89.

#### DECLARATION

by the European Community on the rights of lawyers of the EFTA States under Community law

The Community undertakes to amend the Statute of the Court of Justice and the Court of First Instance of the European Communities so as to ensure that agents appointed for each case, when representing an EFTA State or the EFTA Surveillance Authority, may be assisted by an adviser or by a lawyer entitled to practise before a court of an EFTA State. It also undertakes to ensure that lawyers entitled to practise before a court of an EFTA State may represent individuals and economic operators before the Court of Justice and the Court of First Instance of the European Communities.

Such agents, advisers and lawyers shall, when they appear before the Court of Justice and the Court of First Instance of the European Communities, enjoy the rights and immunities necessary to the independent exercise of their duties, under the conditions to be laid down in the rules of procedure of those Courts.

In addition, the Community will take the necessary measures in order to ensure lawyers of the EFTA States the same rights as to legal privilege under Community law as lawyers of EC Member States.

#### DECLARATION

by the European Community on the participation of the EFTA States' experts in [EEA](#) relevant EC Committees in application of Article 100 of the Agreement

The Commission of the European Communities confirms that in the application of the principles laid down in Article 100, it is understood that each EFTA State will designate its own experts. Those experts will be involved on an equal footing together with national experts from the EC Member States in the work preparatory to the convening of the EC committees relevant to the 'acquis' in question. The EC Commission will pursue consultations as long as deemed necessary, until the Commission submits its proposal at a formal meeting.

#### DECLARATION

---

by the European Community on article 103 of the Agreement

The European Community considers that until the constitutional requirements referred to in Article 103(1) of the Agreement are fulfilled by the EFTA States, it can delay the definitive application of the [EEA](#) Joint Committee decision referred to in the same Article.

#### DECLARATION

by the Governments of the EFTA States on Article 103(1) of the Agreement

Aiming to achieve a homogeneous [EEA](#), and without prejudice to the functioning of their democratic institutions, the EFTA States will use their best endeavours to promote the fulfilment of the necessary constitutional requirements as foreseen in the first subparagraph of Article 103(1) of the [EEA](#) Agreement.

#### DECLARATION

by the European Community on transit in the fisheries sector

It is the Community's understanding that Article 6 of Protocol 9 will also be applicable if a mutually satisfactory arrangement on the question of transit is not found before the entry into force of the Agreement.

#### DECLARATION

by the European Community and the Governments of Austria, Finland, Liechtenstein, Sweden and Switzerland on whale products

The European Community and the Governments of Austria, Finland, Liechtenstein, Sweden and Switzerland declare that Appendix 2, Table I, of Protocol 9 is without prejudice to the import ban which they apply for whale products.

#### DECLARATION

by the Government of Switzerland concerning customs duties of a fiscal nature

The internal procedure in view of the transformation of customs duties of a fiscal nature into internal taxation has been launched.

Without prejudice to Protocol 5 to the Agreement, Switzerland will eliminate these duties on the tariff positions listed in the table attached to Protocol 5, subject to the approval, according to its internal legislation, of the necessary constitutional and legislative modifications, at the moment when the internal taxation enters into force.

A referendum on this subject will be held before the end of 1993.

In case of a positive outcome of the constitutional referendum, best efforts will be undertaken in order to proceed to the transformation of customs duties of a fiscal nature into internal taxes by the end of 1996.

#### DECLARATION

by the European Community on bilateral agreements

The Community considers that

- the bilateral agreements on transport of goods by road and rail between the European Economic Community and Austria and between the European Economic Community and Switzerland,
- the bilateral agreements on certain arrangements concerning agriculture between the European Economic Community and each EFTA State,

- the bilateral agreements on fisheries between the European Economic Community and Sweden, the European Economic Community and Norway and the European Economic Community and Iceland, notwithstanding the fact that these agreements have been laid down in separate legal instruments, are part of the overall balance of the results of the negotiations and essential elements for its approval of the [EEA](#) Agreement.

The Community therefore reserves its right to suspend the conclusion of the [EEA](#) Agreement as long as the ratification of the abovementioned bilateral agreements has not been notified to the Community by the EFTA States concerned. Moreover, the Community reserves its position as to the consequences to be drawn in case of non-ratification of these agreements.

#### DECLARATION

by the Government of Switzerland on the Agreement between the EEC and the Swiss Confederation on the carriage of goods by road and rail

Switzerland shall endeavour to ratify the bilateral agreement between the EEC and the Swiss Confederation on carriage of goods by road and rail on time for the ratification of the [EEA](#) Agreement, while confirming its position that the [EEA](#) Agreement and this bilateral agreement are to be considered as two separate legal instruments with their own merits.

#### DECLARATION

by the Government of Austria on the Agreement between the EEC and the Republic of Austria on the transit of goods by road and rail

Austria shall endeavour to ratify the bilateral agreement between the EEC and the Republic of Austria on the transit of goods by road and rail on time for the ratification of the [EEA](#) Agreement, while confirming its position that the [EEA](#) Agreement and this bilateral agreement are to be considered as two separate legal instruments with their own merits.

#### DECLARATION

by the Governments of the EFTA States concerning the EFTA financial mechanism

The EFTA States consider that the 'appropriate and equitable solutions` referred to in the Joint Declaration concerning the financial mechanism should have the effect either that an EFTA State acceding to the Community should not be party to any financial obligation entered into by the EFTA financial mechanism after that State's accession to the Community or that a corresponding adjustment should be made to the contributions of that State to the EC general budget.

#### DECLARATION

by the Governments of the EFTA States concerning a court of first instance

The EFTA States will establish a court of first instance for cases in the field of competition, should the need arise.

**DOCNUM** 21994A0103(01)

**AUTHOR** EUROPEAN ECONOMIC COMMUNITY ; EUROPEAN COAL AND STEEL COMMUNITY ; THE 12 MEMBER STATES ; BELGIUM ; DENMARK ; FEDERAL REPUBLIC OF GERMANY ; GREECE ; SPAIN ; FRANCE ; IRELAND ; ITALY ; LUXEMBOURG ; NETHERLANDS ; PORTUGAL

; UNITED KINGDOM ; AUSTRIA ; FINLAND ; ICELAND ;  
LIECHTENSTEIN ; NORWAY ; SWEDEN ; SWITZERLAND

**FORM** AGREEMENT

**TREATY** European Community ; European Coal and Steel Community

**TYPDOC** 2 ; EXTERNAL RELATIONS ; 1994 ; A

**PUBREF** Official Journal L 001 , 03/01/1994 p. 0003 - 0036

**DESCRIPT** EC association agreement ; European Economic Area ; EFTA countries ;  
ratification of an agreement ; cooperation policy

**PUB** 1994/01/03

**DOC** 1993/12/13

**INFORCE** 1995/05/01=LIECHTENSTEIN ; 1994/01/01=EV

**ENDVAL** 9999/99/99

**SIGNED** 1992/05/02=OPORTO

**LEGBASE** 11951K..... ADOPTION  
11992E238..... ADOPTION  
11992E228-P3L2..... ADOPTION

**LEGCIT** 21994A0103(02).....  
21994A0103(03).....  
21994A0103(04).....  
21994A0103(05).....  
21994A0103(06).....  
21994A0103(07).....  
21994A0103(08).....  
21994A0103(10).....  
21994A0103(11).....  
21994A0103(12).....  
21994A0103(13).....  
21994A0103(15)-A5.....  
21994A0103(19).....  
21994A0103(20).....  
21994A0103(21).....  
21994A0103(22).....  
21994A0103(23).....  
21994A0103(24).....  
21994A0103(25).....  
21994A0103(26).....  
21994A0103(27).....  
  
21994A0103(28).....  
21994A0103(29).....  
21994A0103(31).....  
21994A0103(32).....  
21994A0103(33).....  
21994A0103(35).....

21994A0103(70).....  
 21994A0103(71).....  
 21994A0103(72).....  
 31989R4064.....  
 11957E093.....

**MODIFIED** AMENDED-BY.... 21994A0103(73)..... AMENDMENT. FR 01/01/1994  
 AMENDED-BY.... 21994A0103(73)..... AMENDMENT. ART.120 FR 01/01/1994  
 AMENDED-BY.... 21994A0103(73)..... AMENDMENT. ART.126.1 FR 01/01/1994  
 AMENDED-BY.... 21994A0103(73)..... REPLACEMNT ART.128.1 FR 01/01/1994  
 AMENDED-BY.... 21994A0103(73)..... REPLACEMNT ART.129.3 FR 01/01/1994  
 AMENDED-BY.... 21994A0103(73)..... REPLACEMNT ART.2.B FR 01/01/1994  
 ADOPTED-BY.... 31994D0001.....  
 AMENDED-BY.... 22000D0615(15)..... COMPLETION ART 5.8 FR 01/01/2000  
 AMENDED-BY.... 22000D0615(15)..... REPLACEMNT ART 5.5 FR  
 01/01/2000

**SUB** EXTERNAL RELATIONS ; ASSOCIATION

**REGISTER** 11401010

**AUTLANG** THE OFFICIAL LANGUAGES ; SPANISH ; DANISH ; GERMAN ; GREEK  
 ; ENGLISH ; FRENCH ; ITALIAN ; DUTCH ; PORTUGUESE ; OTHER  
 THAN COMMUNITY LANGUAGE ; FINNISH ; ICELANDIC ;  
 NORWEGIAN ; SWEDISH

**DEPOS** COUNCIL OF THE EC - SECRETARY-GENERAL

**MISCINF** VALIDITY : NOTICE OF TERMINATION OF 12 MONTHS

**DATES** OF DOCUMENT.....: 13/12/1993  
 OF EFFECT.....: 01/05/1995; LIECHTENSTEIN SEE OJ L 86/95 P. 59  
 AR  
 OF EFFECT.....: 01/01/1994; ENTRY INTO FORCE SEE ART 129; OJ L  
 01/94 P. 606  
 OF SIGNATURE.....: 02/05/1992; OPORTO  
 OF END OF VALIDITY: 99/99/9999

**Agreement on the European Economic Area**  
**Annex XVI - Procurement - List provided for in Article 65 (1)**

**ANNEX XVI****PROCUREMENT**

List provided for in Article 65(1)

**INTRODUCTION**

When the acts referred to in this Annex contain notions or refer to procedures which are specific to the Community legal order, such as

- preambles;
- the addressees of the Community acts;
- references to territories or languages of the EC;
- references to rights and obligations of EC Member States, their public entities, undertakings or individuals in relation to each other; and
- references to information and notification procedures;

Protocol 1 on horizontal adaptations shall apply, unless otherwise provided for in this Annex.

**SECTORAL ADAPTATIONS**

1. For the purposes of applying Directives 71/305/EEC, 89/440/EEC and 90/531/EEC referred to in this Annex, the following shall apply:

Until such time as they apply free movement of labour in accordance with Article 28 of the Agreement, the Contracting Parties shall ensure:

- effective free access for key employees of contractors of any Contracting Parties who have obtained public works contracts;
- non-discriminatory access to work-permits for contractors from any Contracting Parties who have obtained public works contracts.

2. When the acts referred to in this Annex require the publication of notices or documents the following shall apply:

- (a) the publication of notices and other documents as required by the acts referred to in this Annex in the Official Journal of the European Communities and in the Tenders Electronic Daily shall be carried out by the Office for Official Publications of the European Communities;
- (b) notices from the EFTA States shall be sent in at least one of the Community languages to the Office for Official Publications of the European Communities. They shall be published in the Community languages in the S-series of the Official Journal of the European Communities and in the Tenders Electronic Daily. EC notices need not be translated into the languages of the EFTA States.

3. When applying Part VII, Chapter 3, of the Agreement to surveillance for the purposes of this Annex, the competence for surveillance of alleged infringements lies with the EC Commission if the alleged infringement is committed by a contracting entity in the Community and with the EFTA Surveillance Authority if it is committed by a contracting entity in an EFTA State.

**ACTS REFERRED TO**

1. 371 L 0304: Council Directive 71/304/EEC of 26 July 1971 concerning the abolition of restrictions

on freedom to provide services in respect of public works contracts and on the award of public works contracts to contractors acting through agencies of branches (OJ No L 185, 16.8.1971, p. 1).

The provisions of the Directive shall, for the purposes of the present Agreement, be read with the following adaptations:

- (a) the list of professional trade activities shall be replaced by Annex II of Directive 89/440/EEC;
- (b) with regard to Liechtenstein, the measures necessary to comply with this Directive shall enter into force by 1 January 1995;

with regard to Switzerland, the measures necessary to comply with this Directive shall enter into force by 1 January 1994;

during these transition periods the application of the Directive will be reciprocally suspended between these States and the other Contracting Parties.

2. 371 L 0305: Council Directive 71/305/EEC of 26 July 1971 concerning the coordination of procedure for the award of public works contracts (OJ No L 185, 25.8.1971, p. 5), as amended by:

- 389 L 0440: Council Directive 89/440/EEC of 18 July 1989 (OJ No L 210, 21.7.1989, p. 1),
- 390 D 0380: Commission Decision 90/380/EEC of 13 July 1990 concerning the updating of Annex I to Council Directive 89/440/EEC (OJ No L 187, 19.7.1990, p. 55).

The provisions of the Directive shall, for the purposes of the present Agreement, be read with the following adaptations:

- (a) with regard to Liechtenstein, the measures necessary to comply with this Directive shall enter into force by 1 January 1995;

with regard to Switzerland, the measures necessary to comply with this Directive shall enter into force by 1 January 1994;

during these transition periods, the application of the Directive will be reciprocally suspended between these States and the other Contracting Parties;

- (b) in Article 4(a), the phrase 'in conformity with the EEC Treaty' shall read 'in conformity with the EEA Agreement';
- (c) in Article 4(a)(1) and 4(a)(3), in so far as it is not introduced in Finland, Liechtenstein and Switzerland, VAT shall mean:

- 'liikevaihtovero/omsättningskatt' in Finland;
- 'Warenumsatzsteuer' in Liechtenstein;
- 'Warenumsatzsteuer/ impot sur le chiffre d'affaires/ imposta sulla cifra d'affari' in Switzerland;

- (d) in Article 4(a)(2), the value of the thresholds in national currencies of the EFTA States shall be calculated so as to come into effect on 1 January 1993 and shall in principle be revised every two years with effect from 1 January 1995 and published in the Official Journal of the European Communities;

- (e) Article 24 shall be supplemented as follows:

'- in Austria, the Firmenbuch, the Gewerberegister, the Mitgliederverzeichnisse der Landeskammern;

in Finland, the Kaupparekisteri, Handelsregistret;

in Iceland, the Firmaskrá;

in Liechtenstein, the Gewerberegister;

in Norway, the Foretaksregisteret;

in Sweden, the Aktiebolagsregistret, Handelsregistret;

in Switzerland, the Handelsregister, the Registre du Commerce, Registro di Commercio`;

(f) in Article 30(a)(1), the date of 31 October 1993 shall be replaced by 31 October 1995;

(g) Annex I is supplemented by Appendix 1 to this Annex.

3. 377 L 0062: Council Directive 77/62/EEC of 21 December 1976 coordinating procedures for the award of public supply contracts (OJ No L 13, 15.1.1977, p. 1) as amended by Directive 80/767/EEC and Directive 88/295/EEC, as amended and supplemented by:

- 380 L 0767: Council Directive 80/767/EEC of 22 July 1980 adapting and supplementing in respect of certain contracting authorities Directive 77/62/EEC coordinating procedures for the award of public supply contracts (OJ No L 215, 18.8.1980, p. 1), as amended by Directive 88/295/EEC,

- 388 L 0295: Council Directive 88/295/EEC of 22 March 1988 amending Directive 77/62/EEC relating to the coordination of procedures on the award of public supply contracts and repealing certain provisions of Directive 80/767/EEC (OJ No L 127, 20.5.1988, p. 1).

The provisions of the Directive shall, for the purposes of the present Agreement, be read with the following adaptations:

(a) with regard to Liechtenstein, the measures necessary to comply with this Directive shall enter into force by 1 January 1995;

with regard to Switzerland, the measures necessary to comply with this Directive shall enter into force by 1 January 1994;

during these transition periods, the application of the Directive will be reciprocally suspended between these States and the other Contracting Parties;

(b) in Article 2(a), the reference to 'Article 223(1)(b) of the Treaty` shall be replaced by reference to 'Article 123 of the EEA Agreement`;

(c) In Article 5(1)(a), in so far as it is not introduced in Finland, Liechtenstein and Switzerland, VAT shall mean:

- 'Liikevaihtovero/omsättningskatt` in Finland,

- 'Warenumsatzsteuer` in Liechtenstein,

- 'Warenumsatzsteuer/impôt sur le chiffre d'affaires/imposta sulla cifra d'affari` in Switzerland;

(d) on the understanding that the threshold expressed in ECU shall only apply within the EEA, the following words shall be deleted in Article 5(1)(c):

- in the first sentence, the words 'and the threshold of the GATT Agreement expressed in ECU`;

- in the second sentence, the words 'and of the ECU expressed in SDRs`;

(e) in Article 5(1)(c), the value of the thresholds in the national currencies of the EFTA States shall be calculated so as to come into effect on 1 January 1993;

(f) in Article 9(1), the date of 1 January 1989 shall be replaced by 1 January 1993;

(g) in Article 20(4) the sentence 'within the time limit laid down in Article 30` shall read 'before 1 January 1993`;

(h) Article 21 shall be supplemented as follows:

- in Austria, the Firmenbuch, the Gewerberegister, the der Landeskamern,
- in Finland, the Kaupparekisteri, the Handelsregistret,
- in Iceland, the Firmaskrà,
- in Liechtenstein, the Gewerberegister,
- in Norway, the Foretaksregisteret,
- in Sweden, the Aktiebolagsregistret, the Handelsregistret,
- in Switzerland, the Handelsregister, the Registre du Commerce, the Registro di Commercio;

(i) in Article 29(1)(b), the date of 31 October 1991 shall be replaced by 31 October 1994;

(j) Annex I to Directive 80/767/EEC shall be supplemented by Appendix 2 to this Annex;

(k) Annex I to Directive 88/295/EEC shall be supplemented by Appendix 3 to this Annex.

4. 390 L 0531: Council Directive 90/531/EEC of 17 September 1990 on the procurement procedures of entities operating in the water, energy, transport and telecommunications sectors (OJ No L 297, 29.10.1990, p. 1).

The provisions of the Directive shall, for the purposes of the present Agreement, be read with the following adaptations:

(a) with regard to Liechtenstein, the measures necessary to comply with this Directive shall enter into force by 1 January 1995,

with regard to Switzerland, the measures necessary to comply with this Directive shall enter into force by 1 January 1994;

during these transition periods the application of the Directive will be reciprocally suspended between these States and the other Contracting Parties;

(b) with regard to Norway, the measures necessary to comply with this Directive shall enter into force on 1 January 1995 or before upon notification by Norway of having complied with this Directive. During this transition period the application of the Directive will be reciprocally suspended between Norway and the other Contracting Parties;

(c) in Article 3(1)(e) the reference to 'Article 36 of the Treaty` shall be read as a reference to 'Article 13 of the EEA Agreement`;

(d) in Article 11, point 1, the phrase 'in conformity with the Treaty` shall read 'in conformity with the EEA Agreement`;

(e) in Article 12(1) and 12(6), in so far as it is not introduced in Finland, Liechtenstein and Switzerland VAT shall mean:

- 'Liikevaihtovero/omsättningskatt` in Finland,
- 'Warenumsatzsteuer` in Liechtenstein,
- 'Warenumsatzsteuer/impôt sur le chiffre d'affaires/imposta sulla cifra d'affari` in Switzerland;

(f) in Article 27(5) the reference to 'Article 93(3) of the Treaty` shall be replaced by a reference to 'Article 62 of the EEA Agreement`;

(g) in Article 29, the term 'third countries` shall be understood as 'countries other than the Contracting Parties to the EEA Agreement`;

- 
- (h) in Article 29(1) the term 'Community' shall read 'Community, as regards Community entities, or the EFTA States, as regards their entities';
- (i) in Article 29(1) the term 'Community undertakings' shall read 'Community undertakings, as regards Community agreements, or EFTA States' undertakings, as regards EFTA States' agreements';
- (j) in Article 29(1) the words 'the Community or its Member States in respect of third countries' shall read 'either the Community or its Member States in respect of third countries or the EFTA States in respect of third countries';
- (k) in Article 29(5), the words 'by a Council decision' shall read by a 'decision in the context of the general decision-making procedure of the EEA Agreement';

(l) Article 29(6) shall read as follows:

'6. In the context of the general institutional provisions of the EEA Agreement, annual reports shall be submitted on the progress made in multilateral or bilateral negotiations regarding access for Community and EFTA undertakings to the markets of third countries in the fields covered by this Directive, on any result which such negotiations may have achieved, and on the implementation in practice of all the agreements which have been concluded.

In the context of the general decision-making procedure of the EEA Agreement the provisions of this Article may be amended in the light of such developments.;

- (m) in order to enable the contracting entities in the EEA to apply Article 29(2) and (3), the Contracting Parties shall ensure that the suppliers established in their respective territories determine the origin of the products in their tenders for supply contracts in conformity with Regulation (EEC) No 802/68 of the Council of 27 June 1968 on the common definition of the concept of the origin of goods (OJ No L 148, 28.6.1968, p. 1);
- (n) in order to obtain maximum convergence Article 29 will be applied in the EEA context on the understanding that:
- the operation of paragraph (3) is without prejudice to the existing degree of liberalization towards third countries,
  - the Contracting Parties consult closely in their negotiations with third countries.

The application of this regime will be jointly reviewed during 1996;

- (o) in Article 30, the values of the thresholds in national currencies of the EFTA States shall be calculated so as to come into effect on 1 January 1993. They shall in principle be revised every two years with effect from 1 January 1995;
- (p) Annexes I to X are supplemented by Appendices 4 to 13 to this Annex, respectively.

5. 389 L 0665: Council Directive 89/665/EEC of 21 December 1989 on the coordination of the laws, regulations and administrative provisions relating to the application of review procedures to the award of public supply and public works contracts (OJ No L 395, 30.12.1989, p. 33).

The provisions of the Directive shall, for the purposes of the present Agreement, be read with the following adaptations:

- (a) with regard to Liechtenstein, the measures necessary to comply with this Directive shall enter into force by 1 January 1995;

with regard to Switzerland, the measures necessary to comply with this Directive shall enter into force by 1 January 1994;

during these transition periods the application of the Directive will be reciprocally suspended between these States and the other Contracting Parties;

- (b) in Article 2(8), the reference to 'Article 177 of the EEC Treaty' shall be read as by a reference to the 'criteria laid down by the Court of Justice in its interpretation of Article 177 of the EEC Treaty'.(1)

6. 371 R 1182: Regulation (EEC/Euratom) No 1182 of 3 June 1971 determining the rules applicable to periods, dates and time limits (OJ No L 124, 8.6.1971, p. 1).(2)

The provisions of the Regulation shall, for the purposes of the present Agreement, be read with the following adaptations:

- (a) with regard to Liechtenstein, the measures necessary to comply with this Regulation shall enter into force by 1 January 1995;

with regard to Switzerland, the measures necessary to comply with this Regulation shall enter into force by 1 January 1994;

during these transition periods the application of the Regulation will be reciprocally suspended between these States and the other Contracting Parties;

- (b) the words 'Council and Commission acts' shall mean acts referred to in this Annex.

#### ACTS OF WHICH THE CONTRACTING PARTIES SHALL TAKE NOTE

In the application of the provisions of this Annex, the Contracting Parties shall take note of the contents of the following acts:

7. Guide to the Community rules on open public procurement (OJ No C 358, 21.12.1987, p. 1).

8. Commission communication (COM(89) 400 of 27.7.1989) on regional and social aspects (OJ No C 311, 12.12.1989, p. 7).

#### Appendix 1

#### LISTS OF BODIES AND CATEGORIES OF BODIES GOVERNED BY PUBLIC LAW

##### I. In AUSTRIA:

all bodies subject to budgetary supervision by the 'Rechnungshof' (audit authority) not having an industrial or commercial character.

##### II. In FINLAND:

public or publicly controlled entities or undertakings not having an industrial or commercial character.

##### III. In ICELAND:

###### Categories

Fjarmalara suneyti s (Ministry of Finance),

Innkaupastofnun ríkisins (Government Purchasing Department) pursuant to lög nr. 63 1970 um skipan opinberra framkvæmda,

Lyfjaverslun ríkisins (The State Pharmaceuticals Import Company),

Samgöngura suneyti s (Ministry of Communications),

Post- og símamalastofnunin (The Post and Telecommunication Administration),

Vegager s ríkisins (Public Road Administration),

---

Flugmalastjórn (Directorate of Civil Aviation),  
Menntamálaráðuneytið (Ministry of Culture and Education),  
Haskólinn í Íslandi (University of Iceland),  
Utánríkisráðuneytið (Ministry of Foreign Affairs),  
Félagsmálaráðuneytið (Ministry of Social Affairs),  
Heilbrigðis- og tryggingamálaráðuneytið (Ministry of Health and Social Security),  
Ríkisspítalar (National Hospitals),  
Sveitarfélög (Municipalities),  
City of Reykjavík,  
Innkaupastofnun Reykjavíkurborgar (Reykjavik Purchasing Centre).

IV. In LIECHTENSTEIN:

die öffentlich-rechtlichen Verwaltungseinrichtungen auf Landes- und Gemeindeebene. (Authorities, establishments and foundations governed by public law and established at national and municipal level.)

V. In NORWAY:

offentlige eller offentlig kontrollerte organer eller virksomheter som ikke har en industriell eller kommersiell karakter. (Public or publicly controlled entities or undertakings not having an industrial or commercial character.)

Bodies

- Norsk Rikskringkasting (Norwegian Broadcasting Corporation),
- Norges Bank (Central Bank),
- Statens Lånkasse for Utdanning (State Educational Loan Fund),
- Statistisk Sentralbyrå (Central Bureau of Statistics),
- Den Norske Stats Husbank (Norwegian State Housing Bank),
- Statens Innvandrars- og Flyktningeboliger,
- Medisinsk Innovasjon Rikshospitalet,
- Norsk Teknisk Naturvitenskapelig Forskningsråd (Royal Norwegian Council for Scientific and Industrial Research),
- Statens Pensjonskasse (Norwegian Public Pension Fund).

Categories

- Statsbedrifter i h.h.t lov om statsbedrifter av 25. juni 1965 nr. 3 (State enterprises),
- Statsbanker (State banks),
- Universiteter og høyskoler etter lov av 16. juni 1989 nr. 77 (Universities).

VI. In SWEDEN:

alla icke-kommersiella organ vars upphandling står under tillsyn av riksrevisionsverket. (All non-commercial bodies whose procurement is subject to supervision by the National Audit Bureau.)

## VII. In SWITZERLAND:

die öffentlich-rechtlichen Verwaltungseinrichtungen auf Landes-, kantonaler, Bezirks- und Gemeindeebene. (Authorities, establishments and foundations governed by public law and established at federal, cantonal, district and municipal level.)

## Appendix 2

## AUSTRIA

## LIST OF CENTRAL PURCHASING ENTITIES

1. Bundeskanzleramt (Federal Chancellery)
2. Bundesministerium für auswärtige Angelegenheiten (Federal Ministry of Foreign Affairs)
3. Bundesministerium für Gesundheit, Sport und Konsumentenschutz (Federal Ministry of Health, Sports and Consumer Protection)
4. Bundesministerium für Finanzen
  - (a) Amtswirtschaftsstelle
  - (b) Abteilung VI/5 (EDV-Bereich des Bundesministeriums für Finanzen und des Bundesrechenamtes)
  - (c) Abteilung III/1 (Beschaffung von technischen Geräten, Einrichtungen und Sachgütern für die Zollwache)  
(Federal Ministry of Finance)
    - (a) Procurement Office
    - (b) Division VI/5 (EDP procurement of the Federal Ministry of Finance and of the Federal Office of Account)
    - (c) Division III/1 (procurement of technical appliances, equipment and goods for the customs guard))
5. Bundesministerium für Umwelt, Jugend und Familie Amtswirtschaftsstelle (Federal Ministry of Environment, Youth and Family Procurement Office)
6. Bundesministerium für wirtschaftliche Angelegenheiten Abteilung Präsidium 1 (Federal Ministry of Economic Affairs Division Präsidium 1)
7. Bundesministerium für Inneres
  - (a) Abteilung I/5 (Amtswirtschaftsstelle)
  - (b) EDV-Zentrale (Beschaffung von EDV-Hardware)
  - (c) Abteilung II/3 (Beschaffung von technischen Geräten und Einrichtungen für die Bundespolizei)
  - (d) Abteilung I/6 (Beschaffung aller Sachgüter für die Bundespolizei, soweit sie nicht von der Abteilung II/3 beschafft werden)
  - (e) Abteilung IV/8 (Beschaffung von Flugzeugen)  
(Federal Ministry of the Interior)
    - (a) Division I/5 (Procurement Office)
    - (b) EDP-Centre (procurement of electronical data-processing machines (hardware))
    - (c) Division II/3 (procurement of technical appliances and equipment for the Federal Police)
    - (d) Division I/6 (procurement of goods (other than those procured by division II/3) for the Federal

Police)

(e) Division IV/8 (procurement of aircraft))

8. Bundesministerium für Justiz, Amtswirtschaftsstelle (Federal Ministry of Justice, Procurement Office)

9. Bundesministerium für Landesverteidigung (Nichtkriegs-material ist in Anhang I, Teil II, Österreich, des GATT Übereinkommens über das öffentliche Beschaffungswesen enthalten)

(Federal Ministry of Defence (non-warlike materials contained in Annex I, Part II, Austria of the GATT Agreement on Government Procurement))

10. Bundesministerium für Land- und Forstwirtschaft (Federal Ministry of Agriculture and Forestry)

11. Bundesministerium für Arbeit und Soziales Amtswirtschaftsstelle (Federal Ministry of Labour and Social Affairs Procurement Office)

12. Bundesministerium für Unterricht und Kunst (Federal Ministry of Education and Fine Arts)

13. Bundesministerium für öffentliche Wirtschaft und Verkehr (Federal Ministry of Public Economy and Transport)

14. Bundesministerium für Wissenschaft und Forschung (Federal Ministry of Science and Research)

15. Österreichisches Statistisches Zentralamt (Austrian Central Statistical Office)

16. Österreichische Staatsdruckerei (Austrian State Printing Office)

17. Bundesamt für Eich- und Vermessungswesen (Federal Office of Metrology and Surveying)

18. Bundesversuchs- und Forschungsanstalt Arsenal (BVFA) (Federal Institute for Testing and Research Arsenal (BVFA))

19. Bundesstaatliche Prothesenwerkstätten (Federal Workshops for Artificial Limbs)

20. Bundesamt für Zivilluftfahrt (Federal Office for Civil Aviation)

21. Amt für Schifffahrt (Office for Navigation)

22. Bundesprüfanstalt für Kraftfahrzeuge (Federal Institute for Testing of Motor Vehicles)

23. Generaldirektion für die Post- und Telegraphenverwaltung (nur Einrichtungen für das Postwesen) (Headquarters of the Postal and Telegraph Administration (postal business only))

FINLAND

#### LIST OF CENTRAL PURCHASING ENTITIES

1. Oikeusministeriö, Justitieministeriet (Ministry of Justice)

2. Suomen rahapaja, Myntverket i Finland (Mint of Finland)

3. Valtion painatuskeskus, Statens tryckericentral (Government Printing Centre)

4. Valtion ravitsemuskeskus, Statens måltidscentral (State Catering Centre)

5. Metsähallitus, Forststyrelsen (National Board of Forestry)

6. Maanmittaushallitus, Lantmäteristyrelsen (National Board of Survey)

7. Maatalouden tutkimuskeskus, Lantbrukets forskningscentral (Agricultural Research Centre of Finland)

8. Valtion margariinitehdas, Statens margarinfabrik (State Margarine Factory)

- 
9. Ilmailulaitos, Luftfartsverket (National Board of Aviation)
  10. Ilmatieteen laitos, Meteorologiska institutet (Finnish Meteorological Institute)
  11. Merenkulkuhallitus, Sjöfarststyrelsen (National Board of Navigation)
  12. Valtion teknillinen tutkimuskeskus, Statens tekniska forskningscentral (Technical Research Centre of Finland)
  13. Valtion Hankintakeskus, Statens upphandlingscentral (Government Purchasing Centre)
  14. Vesi- ja ympäristöhallitus, Vatten- och miljöstyrelsen (National Board of Waters and the Environment)
  15. Opetushallitus, Utbildningstyrelsen (National Board of Education)

## ICELAND

## LIST OF CENTRAL PURCHASING ENTITIES EQUIVALENT TO THOSE COVERED BY THE GATT AGREEMENT ON GOVERNMENT PROCUREMENT

Central purchasing entities governed by the lög um opinber innkaup 18. mars 1987, and regluger s 14. april 1988.

## LIECHTENSTEIN

## LIST OF CENTRAL PURCHASING ENTITIES EQUIVALENT TO THOSE COVERED BY THE GATT AGREEMENT ON GOVERNMENT PROCUREMENT

1. Regierung des Fürstentums Liechtenstein
2. Liechtensteinische Post-, Telefon- und Telegrafbetriebe (PTT)

## NORWAY

## LIST OF CENTRAL PURCHASING ENTITIES

1. Statens vegvesen (National Road Services)
2. Postverket (Postal Services Administration)
3. Rikshospitalet (State Hospital)
4. Universitetet i Oslo (University of Oslo)
5. Politiet (Police Services)
6. Norsk Rikskringkasting (Norwegian Broadcasting Corporation)
7. Universitetet i Trondheim (University of Trondheim)
8. Universitetet i Bergen (University of Bergen)
9. Kystdirektoratet (Coastal Directorate)
10. Universitetet i Tromsø (University of Tromsø)
11. Statens forurensingstilsyn (State Pollution Control Authority)
12. Luftfartsverket (National Civil Aviation Administration)
13. Forsvarsdepartementet (Ministry of Defence)
14. Forsvarets Sanitet (Norwegian Defence Medical Service)
15. Luftforsvarets Forsyningskommando (Airforce Material Command)

- 
16. Hærens Forsyningskommando (Army Material Command)
  17. Sjøforsvarets Forsyningskommando (Navy Material Command)
  18. Forsvarets Felles Materielltjeneste (Defence Combined Material Agency)
  19. Norges Statsbaner (for innkjøp av)
    - betongsviller
    - bremseutstyr til rullende materiell
    - reservedeler til skinnegående maskiner
    - autodiesel
    - person- og varebiler(National Railways (for the procurement of)
    - concrete sleepers
    - brake details for rolling stocks
    - spare parts for railway track machines
    - autodiesel
    - cars and vans for railway services)

## SWEDEN

## LIST OF CENTRAL PURCHASING ENTITIES. THE LISTED ENTITIES INCLUDE REGIONAL AND LOCAL SUBDIVISIONS

1. Försvarets materielverk (Defence Material Administration)
2. Vägverket (National Road Administration)
3. Byggnadsstyrelsen (National Board of Public Building)
4. Postverket (Post Office Administration)
5. Domänverket (Swedish Forest Service)
6. Luftfartsverket (National Civil Aviation Administration)
7. Fortifikationsförvaltningen (Fortifications Administration)
8. Skolverket (National Board of Education)
9. Rikspolisstyrelsen (National Police Board)
10. Statskontoret (Agency for Administrative Development)
11. Kriminalvårdsstyrelsen (National Prison and Probation Administration)
12. Sjöfartsverket (National Administration of Shipping and Navigation)
13. Riksskatteverket (National Tax Board)
14. Skogsstyrelsen (National Board of Forestry)
15. Försvarets sjukvårdsstyrelse (Medical Board of the Armed Forces)
16. Statens trafiksäkerhetsverk (National Road Safety Office)
17. Civilförsvarsstyrelsen (Civil Defence Board)

- 
18. Närings- och teknikutvecklingsverket (Board for Industrial and Technical Development)
  19. Socialstyrelsen (National Board of Health and Welfare)
  20. Statistiska centralbyrån (Central Bureau of Statistics)

## SWITZERLAND

## LIST OF CENTRAL PURCHASING ENTITIES

1. Eidgenössische Drucksachen- und Materialzentrale  
Office central fédéral des imprimés et du matériel  
Ufficio centrale federale degli stampati e del materiale  
(Central Federal Office for Printed Material and Supplies)
2. Eidgenössische Parlaments- und Zentralbibliothek  
Bibliothèque centrale du Parlement et de l'administration fédérale  
Biblioteca centrale del Parlamento e dell'amministrazione federale  
(Central Library for the Parliament and the Federal Administration)
3. Amt für Bundesbauten  
Office des constructions fédérales  
Ufficio delle costruzioni federali  
(Federal Construction Office)
4. Eidgenössische Technische Hochschule Zürich  
Ecole polytechnique fédérale de Zurich  
Politecnico federale di Zurigo  
(Federal Polytechnic School, Zürich)
5. Eidgenössische Technische Hochschule Lausanne  
Ecole polytechnique fédérale de Lausanne  
Politecnico federale di Losanna  
(Federal Polytechnic School, Lausanne)
6. Schweizerische Meteorologische Zentralanstalt  
Institut suisse de météorologie  
Istituto svizzero di meteorologia  
(Swiss Institute for Meteorology)
7. Eidgenössische Anstalt für Wasserversorgung, Abwasserreinigung und Gewässerschutz  
Institut fédéral pour l'aménagement, l'épuration et la protection des eaux  
Istituto federale per l'approvvigionamento, la depurazione e la protezione delle acque  
(Federal Institute for Water Management, Purification and Protection)
8. Eidgenössische Forschungsanstalt für Wald, Schnee und Landschaft

---

Institut fédéral de recherches sur la forêt, la neige et le paysage  
Istituto federale di ricerca per la foresta, la neve e il paesaggio  
Federal Institute for research on the forest, the snow and the landscape

9. Bundesamt für Gesundheitswesen

Office fédéral de la santé publique  
Ufficio federale della sanità pubblica  
(Federal Office for Public Health)

10. Schweizerische Landesbibliothek

Bibliothèque nationale suisse  
Biblioteca nazionale svizzera  
(Swiss National Library)

11. Bundesamt für Zivilschutz

Office fédéral de la protection civile  
Ufficio federale della protezione civile  
(Federal Office for Civil Protection)

12. Eidgenössische Zollverwaltung

Administration fédérale des douanes  
Amministrazione federale delle dogane  
(Federal Administration for Customs)

13. Eidgenössische Alkoholverwaltung

Régie fédérale des alcools  
Regia federale degli alcool  
(Federal Alcohol Administration)

14. Münzstätte

Monnaie  
Zecca  
(Mint)

15. Eidgenössisches Amt für Messwesen

Office fédéral de métrologie  
Ufficio federale di metrologia  
(Federal Office for Metrology)

16. Paul Scherrer Institut

Institut Paul Scherrer  
Istituto Paul Scherrer

(Institute Paul Scherrer)

17. Bundesamt für Landwirtschaft

Office fédéral de l'agriculture

Ufficio federale dell'agricoltura

(Federal Office for Agriculture)

18. Bundesamt für Zivilluftfahrt

Office fédéral de l'aviation civile

Ufficio federale dell'aviazione civile

(Federal Office for Civil Aviation)

19. Bundesamt für Wasserwirtschaft

Office fédéral de l'économie des eaux

Ufficio federale dell'economia delle acque

(Federal Office for Water Management)

20. Gruppe für Rüstungsdienste

Groupement de l'armement

Aggruppamento dell'armamento

(Group for Armament)

21. Postbetriebe

Entreprise des postes

Azienda delle poste

(Postal business of the PTT)

Appendix 3

#### LISTS OF BODIES AND CATEGORIES OF BODIES GOVERNED BY PUBLIC LAW

I. In AUSTRIA:

all bodies subject to budgetary supervision by the 'Rechnungshof' (audit authority) not having an industrial or commercial character.

II. In FINLAND:

public or publicly controlled entities or undertakings not having an industrial or commercial character.

III. In ICELAND:

Categories

Fjarmalara suneyti s (Ministry of Finance),

Innkaupastofnun ríkisins (Government Purchasing Department) pursuant to lög um opinber innkaup 18. mars 1987 and Regluger s 14. apríl 1988,

Lyfjaverslun ríkisins (The State Pharmaceuticals Import Company),

Samgöngura suneyti s (Ministry of Communications),

---

Post- og símamalastofnunin (The Post and Telecommunication Administration),  
Vegager s ríkisins (Public Road Administration),  
Flugmalastjórn (Directorate of Civil Aviation),  
Menntamálaráðgjafi (Ministry of Culture and Education),  
Háskóli Íslands (University of Iceland),  
Utarríkisráðgjafi (Ministry of Foreign Affairs),  
Félagsmálaráðgjafi (Ministry of Social Affairs),  
Heilbrigðis- og tryggingamálaráðgjafi (Ministry of Health and Social Security),  
Ríkisspítalar (National Hospitals),  
Sveitarfélög (Municipalities),  
City of Reykjavík,  
Innkaupastofnun Reykjavíkurborgar (Reykjavik Purchasing Centre).

IV. In LIECHTENSTEIN:

die öffentlich-rechtlichen Verwaltungseinrichtungen auf Landes- und Gemeindeebene. (Authorities, establishments and foundations governed by public law and established at national and municipal level.)

V. In NORWAY:

offentlige eller offentlig kontrollerte organer eller virksomheter som ikke har en industriell eller kommersiell karakter. (Public or publicly controlled entities or undertakings not having an industrial or commercial character.)

Bodies

- Norsk Rikskringkasting (Norwegian Broadcasting Corporation),
- Norges Bank (Central Bank),
- Statens Lånekasse for Utdanning (State Educational Loan Fund),
- Statistisk Sentralbyrå (Central Bureau of Statistics),
- Den Norske Stats Husbank (Norwegian State Housing Bank),
- Statens Innvandrar- og Flyktningeboliger,
- Medisinsk Innovasjon Rikshospitalet,
- Norsk Teknisk Naturvitenskapelig Forskningsråd, (Royal Norwegian Council for Scientific and Industrial Research),
- Statens Pensjonskasse (Norwegian Public Pension Fund).

Categories

- Statsbedrifter i h.h.t. lov om statsbedrifter av 25. juni 1965 nr. 3 (State enterprises),
- Statsbanker (State banks),
- Universiteter og høyskoler etter lov av 16. juni 1989 nr. 77 (Universities).

VI. In SWEDEN:

---

alla icke-kommersiella organ vars upphandling står under tillsyn av riksrevisionsverket. (All non-commercial bodies whose procurement is subject to supervision by the National Audit Bureau.)

VII. In SWITZERLAND:

die öffentlich-rechtlichen Verwaltungseinrichtungen auf Landes-, kantonaler, Bezirks- und Gemeindeebene. (Authorities, establishments and foundations governed by public law and established at federal, cantonal, district and municipal level.)

Appendix 4

PRODUCTION, TRANSPORT OR DISTRIBUTION OF DRINKING WATER

AUSTRIA

Entities of local authorities (Gemeinden) and associations of local authorities (Gemeindeverbände) pursuant to the Wasserversorgungsgesetze of the nine Länder.

FINLAND

Entities producing, transporting or distributing drinking water pursuant to Article 1 of Laki yleisistä vesija viemärilaitoksista (982/77) of 23 December 1977.

ICELAND

Reykjavik Municipal Water Works and other Municipal Water Works pursuant to lög nr. 15 fra 1923.

LIECHTENSTEIN

Gruppenwasserversorgung Liechtensteiner Oberland.

Wasserversorgung Liechtensteiner Unterland.

NORWAY

Entities producing or distributing water pursuant to Forskrift om Drikkevann og Vannforsyning (FOR 1951-09-28 9576 SO).

SWEDEN

Local authorities and municipal companies which produce, transport or distribute drinking water pursuant to Lag (1970:244) om allmänna vatten- och avloppsanläggningar.

SWITZERLAND

Territorial administrative bodies and enterprises producing, transporting and distributing water.

Such territorial administrative bodies and enterprises are operating under local or cantonal legislation or under individual agreements based thereupon.

Appendix 5

PRODUCTION, TRANSPORT OR DISTRIBUTION OF ELECTRICITY

AUSTRIA

Entities pursuant to the second Verstaatlichungsgesetz (BGBl. 81/47, as last amended by BGBl. 321/87) and the Elektrizitätswirtschaftsgesetz (BGBl. 260/75, as amended by BGBl. 131/79), including the Elektrizitätswirtschaftsgesetze of the nine Länder.

FINLAND

Entities producing, transporting or distributing electricity on the basis of a concession pursuant to Article 27 of Sähkölaki (319/79) of 16 March 1979.

## ICELAND

The National Power Company pursuant to lög nr. 59 ari s 1965.

The State Electric Power Works pursuant to 9. kafli orkulaga nr. 58 ari s 1967.

Reykjavik Municipal Electric Works.

Sudurnes Regional Heating pursuant to lög nr. 100 ari s 1974.

Vestfjord Power Company pursuant to lög nr. 66 ari s 1976.

## LIECHTENSTEIN

Liechtensteinische Kraftwerke.

## NORWAY

Entities producing, transporting or distributing electricity pursuant to lov om bygging og drift av elektriske anlegg (LOV 1969-06-19) Lov om erverv av vannfall, bergverk og annen fast eiendom m.v., Kap. I, jf.kap.V (LOV 1917-12-14 16, kap. I), or Vassdragsreguleringsloven (LOV 1917-12-14 17) or Energiloven (LOV 1990-06-29 50).

## SWEDEN

Entities which transport or distribute electricity on the basis of a concession pursuant to Lag (1902:71 s.1) innefattande vissa bestämmelser om elektriska anläggningar.

## SWITZERLAND

Territorial administrative bodies and enterprises for the transport and distribution of electricity operating on the basis of authorizations for expropriation pursuant to the Bundesgesetz vom 24. Juni 1902 betreffend die elektrischen Schwach- und Starkstromanlagen.

Territorial administrative bodies and enterprises producing electricity to be supplied to territorial administrative bodies and enterprises mentioned above pursuant to the Bundesgesetz vom 22. Dezember 1916 über die Nutzbarmachung der Wasserkräfte and the Bundesgesetz vom 23. Dezember 1959 über die friedliche Verwendung der Atomenergie und den Strahlenschutz.

Appendix 6

## TRANSPORT OR DISTRIBUTION OF GAS OR HEAT

## AUSTRIA

! TABLE POSITION!

## FINLAND

Municipal energy boards (kunnalliset energialaitokset), or associations thereof, or other entities distributing gas or heat on the basis of a concession granted by the municipal authorities.

## ICELAND

Sudurnes Regional Heating pursuant to lög nr. 100 ari s 1974.

Reykjavik Municipal District Heating and other municipal district heating.

## LIECHTENSTEIN

Liechtensteinische Gasversorgung.

## NORWAY

---

Entities transporting or distributing heat pursuant to Lov om bygging og drift av fjernvarmeanlegg (LOV 1986-04-18 10) or Energiloven (LOV 1990-06-29 50).

**SWEDEN**

Entities which transport or distribute gas or heat on the basis of a concession pursuant to Lag (1978:160) om vissa rörledningar.

**SWITZERLAND**

Territorial administrative bodies and enterprises operating a pipeline pursuant to the Bundesgesetz vom 4. Oktober 1963 über Rohrleitungsanlagen zur Beförderung flüssiger oder gasförmiger Brenn- und Treibstoffe.

## Appendix 7

**EXPLORATION FOR AND EXTRACTION OF OIL OR GAS****AUSTRIA**

Entities pursuant to the Berggesetz 1975 (BGBl. 259/75, as last amended by BGBl. 355/90).

**FINLAND**

Entities operating on the basis of an exclusive right pursuant to Articles 1 and 2 of Laki oikeudesta luovuttaa valtion maaomaisuutta ja tuloatuottavia oikeuksia (687/78).

**ICELAND**

National Energy Authority pursuant to lög nr. 58 ari s 1967.

**LIECHTENSTEIN**

-

**NORWAY**

Contracting entities covered by Petroleumsløven (LOV 1985-03-22 11) (Petroleum Act) and regulations pursuant to the Petroleum Act or by Lov om undersøkelse etter og utvinning av petroleum i grunnen under norsk landområde (LOV 1973-05-04 21).

**SWEDEN**

Entities exploring or extracting oil or gas on the basis of a concession pursuant to Lag (1974:890) om vissa mineralfyndigheter or which have been granted an authorization pursuant to Lag (1966:314) om kontinentalsøkkeln.

**SWITZERLAND**

Territorial administrative bodies and enterprises exploring for or extracting oil or gas pursuant to cantonal provisions on exploitation of the subsoil laid down in the the Verfassungen der Kantone or the Erdölkonkordat vom 24. September 1955 zwischen den Kantonen Zürich, Schwyz, Zug, Schaffhausen, Appenzell Innerrhoden, Appenzell Ausserrhoden, St. Gallen, Argau und Thurgau or the Einführungsgesetzen zum Zivilgesetzbuch der Kantone or the Spezialgesetzgebungen der Kantone.

## Appendix 8

**EXPLORATION FOR AND EXTRACTION OF COAL OR OTHER SOLID FUELS****AUSTRIA**

Entities pursuant to the Berggesetz 1975 (BGBl. 259/75, as last amended by BGBl. 355/90).

## FINLAND

-

## ICELAND

National Energy Authority pursuant to lög nr. 58 ari s 1967.

## LIECHTENSTEIN

-

## NORWAY

-

## SWEDEN

Entities exploring or extracting coal or other solid fuels on the basis of a concession pursuant to Lag (1974:890) om vissa mineralfyndigheter or Lag (1985:620) om vissa torvfyndigheter or which have been granted an authorization pursuant to Lag (1966:314) om kontinentalsockeln.

## SWITZERLAND

-

## Appendix 9

## CONTRACTING ENTITIES IN THE FIELD OF RAILWAY SERVICES

## AUSTRIA

Entities pursuant to the Eisenbahngesetz 1957 (BGBl. 60/57, amended last by BGBl. 305/76).

## FINLAND

Valtion rautatiet, Statsjärnvägarna (State Railways).

## ICELAND

-

## LIECHTENSTEIN

-

## NORWAY

Norges Statsbaner (NSB) and entities operating pursuant to Lov inneholdende særskilte Bestemmelser angaaende Anlæg af Jernveie til almindelig Benyttelse (LOV 1848-08-12) or Lov inneholdende Bestemmelser angaaende Jernveie til almindelig Afbenyttelse (LOV 1854-09-07) or Lov om Tillæg til Jernveisloven af 12te August 1848 (LOV 1898-04-23).

## SWEDEN

Public entities operating railway services in accordance with Förordning (1988:1339) om statens spåranläggningar and Lag (1990:1157) om järnvägssäkerhet.

Regional and local public entities operating regional or local railway communications pursuant to Lag (1978:438) om huvudmannaskap för viss kollektiv persontrafik.

Private entities operating railway services pursuant to a permission under Förordning (1988:1339) om statens spåranläggningar where such permits correspond to Article 2(3) of the Directive.

## SWITZERLAND

---

Schweizerische Bundesbahnen (SBB)/Chemins de Fer fédéraux (CFF). All other enterprises pursuant to Article 1, paragraph 2, and Article 2, paragraph 1, of the Eisenbahngesetz vom 20. Dezember 1957.

Appendix 10

#### CONTRACTING ENTITIES IN THE FIELD OF URBAN RAILWAY, TRAMWAY, TROLLEY BUS OR BUS SERVICES

##### AUSTRIA

Entities pursuant to the Eisenbahngesetz 1957 (BGBl. 60/57, amended last by BGBl. 305/76) and the Kraftfahrlineingesetz 1952 (BGBl. 84/52, as amended by BGBl. 265/66).

##### FINLAND

Municipal traffic boards (kunnalliset liikennelaitokset) or entities providing bus services to the public on the basis of a concession granted by the municipal authorities.

##### ICELAND

The Reykjavik Municipal Bus Service.

##### LIECHTENSTEIN

Liechtensteinische Post-, Telefon- und Telegrafbetriebe (PTT).

##### NORWAY

Norges Statsbaner (NSB) and land transport entities operating pursuant to Lov inneholdende særskilte Bestemmelser angaaende Anlæg af Jernveie til almindelig Benyttelse (LOV 1848-08-12) or Lov inneholdende Bestemmelser angaaende Jernveie til almindelig Afbenyttelse (LOV 1854-09-07) or Lov om Tillæg til Jernveisloven af 12te August 1848 (LOV 1898-04-23) or Lov om samferdsel (LOV 1976-06-04 63) or Lov om anlæg av taugbaner og løpestrenger (LOV 1912-06-14 1).

##### SWEDEN

Public entities operating urban railway or tramway services according to Lag (1978:438) om huvudmannaskap för viss kollektiv persontrafik and Lag (1990:1157) om järnvägssäkerhet.

Public or private entities operating a trolley bus or bus service in accordance with Lag (1978:438) om huvudmannaskap för viss kollektiv persontrafik and Lag (1988:263) om yrkestrafik.

##### SWITZERLAND

Schweizerische Post-, Telefon- und Telegrafbetriebe (PTT).

Territorial administrative bodies and enterprises providing tramway services pursuant to Article 2, paragraph 1, of the Eisenbahngesetz vom 20. Dezember 1957.

Territorial administrative bodies and enterprises for the public transport providing services pursuant to Article 4, paragraph 1, of the Bundesgesetz vom 29. März 1950 über die Trolleybusunternehmungen.

Territorial administrative bodies and enterprises undertaking scheduled commercial passenger transport pursuant to Article 1, paragraph 1 lit. a, and Article 3, paragraph 1, of the Postverkehrsgesetz vom 2. Oktober 1924.

Appendix 11

#### CONTRACTING ENTITIES IN THE FIELD OF AIRPORT FACILITIES

##### AUSTRIA

---

Entities as defined in Articles 63 to 80 of the Luftfahrtgesetz 1957 (BGBl. 253/57).

FINLAND

Airports managed by Ilmailulaitos pursuant to Ilmailulaki (595/64).

ICELAND

Directorate of Civil Aviation.

LIECHTENSTEIN

-

NORWAY

Entities providing airport facilities pursuant to Lov om luftfart (LOV 1960-12-16 1).

SWEDEN

Publicly owned and operated airports in accordance with Lag (1957:297) om luftfart.

Privately owned and operated airports with an exploitation permit under the act, where this permit corresponds to the criteria of Article 2(3) of the Directive.

SWITZERLAND

Aéroport de Bâle-Mulhouse set up pursuant to the Convention Franco-Suisse du 4 juillet 1949 relative à la construction et à l'exploitation de l'aéroport de Bâle-Mulhouse, à Blotzheim.

Airports operated by virtue of a licence pursuant to Article 37 of the Bundesgesetz vom 21. Dezember 1948 über die Luftfahrt.

Appendix 12

CONTRACTING ENTITIES IN THE FIELD OF MARITIME OR INLAND PORT OR OTHER TERMINAL FACILITIES

AUSTRIA

Inland ports owned totally or partially by Länder and/or Gemeinden.

FINLAND

Ports owned or managed by municipal authorities pursuant to Laki kunnallisista satamajärjestyksistä ja liikennemaksuista (955/76).

Saimaa Canal (Saimaan kanavan hoitokunta).

ICELAND

The State Lighthouse and Port Authority pursuant to hafnalög nr. 69 ari s 1984.

Port of Reykjavik.

LIECHTENSTEIN

-

NORWAY

Norges Statsbaner (NSB) (Railway terminals).

Entities operating pursuant to Havneloven (LOV 1984-06-08 51).

SWEDEN

Publicly owned and/or operated ports and terminal facilities according to Lag (1988:293) om inrättande, utvidgning och avlysning av allmän farled och allmän hamn, Förordning (1983:744) om trafiken på Göta kanal, Kungörelse (1970:664) om trafik på Södertälje kanal, Kungörelse (1979:665) om trafik på Trollhätte kanal.

#### SWITZERLAND

Rheinhäfen beider Basel: for the Kanton Basel-Stadt set up pursuant to the Gesetz vom 13. November 1919 betreffend Verwaltung der baselstädtischen Rheinhafenanlagen, for the Kanton Basel-Land set up pursuant to the Gesetz vom 26. Oktober 1936 über die Errichtung von Hafen-, Geleise- und Strassenanlagen auf dem 'Sternenfeld', Birsfelden, and in der 'Au', Muttenz.

#### Appendix 13

### OPERATION OF TELECOMMUNICATIONS NETWORKS OR PROVISION OF TELECOMMUNICATIONS SERVICES

#### AUSTRIA

Osterreichische Post- und Telegraphenverwaltung (PTV).

#### FINLAND

Entities operating on the basis of an exclusive right pursuant to Article 4 of Teletointalaki (183/87) of 16 July 1990.

#### ICELAND

The Post and Telecommunication Administration pursuant to lög um fjarskipti nr. 73 ari s 1984 and lög um stjórn og starfsemi post- og símamala nr. 36 ari s 1977.

#### LIECHTENSTEIN

Liechtensteinische Post-, Telefon- und Telegrafbetriebe (PTT).

#### NORWAY

Entities operating pursuant to Telegrafloven (LOV 1899-04-29).

#### SWEDEN

Private entities operating subject to permits corresponding to the criteria of Article 2(3) of the Directive.

#### SWITZERLAND

Schweizerische Post-, Telefon- und Telegrafbetriebe (PTT).

- (1) Examples: Case 61/65 Vaassen v Beambtenfonds Mijnbedrijf [1966] ECR 261; [1966] CMLR 508; Case 36/73 Nederlandse Spoorwegen v Minister van Verkeer en Waterstaat [1973] ECR 1299; [1974] 2 CMLR 148; Case 246/80 Broekmeulen v Huisarts Registratie Commissie [1981] ECR 2311; [1982] 1 CMLR 91.
- (2) Article 30 of Directive 71/305/EEC and Article 28 of Directive 77/62/EEC refer to this Regulation which needs therefore to be part of the 'acquis'.

**DOCNUM**

21994A0103(66)

**AUTHOR** EUROPEAN ECONOMIC COMMUNITY ; European Coal and Steel Community ; The 12 Member States ; Belgium ; Denmark ; Federal Republic of Germany ; Greece ; Spain ; France ; Ireland ; Italy ; Luxembourg ; Netherlands ; Portugal ; United Kingdom ; Austria ; Finland ; Iceland ; Liechtenstein ; Norway ; Sweden ; Switzerland

**FORM** Various acts

**TREATY** European Coal And Steel Community ; European Community

**TYPDOC** 2 ; external relations ; 1994 ; A

**PUBREF** Official Journal L 001 , 03/01/1994 P. 0461 - 0481

**DESCRIPT** European Economic Area ; public contract ; public institution ; EFTA countries ; freedom to provide services ; award of contract

**PUB** 1994/01/03

**DOC** 1993/12/13

**INFORCE** 1995/05/01=LIECHTENSTEIN ; 1994/01/01=EV

**ENDVAL** 9999/99/99

**SIGNED** 1992/05/02=Oporto

**LEGBASE** 11951K..... Adoption  
11992E228-P3L2..... Adoption  
11992E238..... Adoption

**LEGKIT** 21994A0103(01)-A28.....  
21994A0103(01)-A65P1.....  
21994A0103(01)-PART7CH3.....  
21994A0103(02).....

**MODIFIES** 31971L0304..... Incorporation.  
31971L0305..... Incorporation.  
31971R1182..... Incorporation.  
31977L0062..... Incorporation.  
31980L0767..... Incorporation.  
31988L0295..... Incorporation.  
31989L0440..... Incorporation.  
31989L0665..... Incorporation.  
31990D0380..... Incorporation.  
31990L0531..... Incorporation.

**MODIFIED** Amended by.... 21994A0103(73)..... Amendment from 01/01/1994  
Amended by.... 21994D0628(01)..... DP01/07/94  
Adopted by.... 31994D0001.....  
Amended by.... 21995D0420(01)..... DP01/05/95  
Amended by.... 22000D0020..... Amendment PT2ADAPB from 01/07/2000  
Amended by.... 22000D0020..... Amendment APP1PT3 from 01/07/2000  
Amended by.... 22000D0020..... Amendment APP2PT2 from 01/01/2000  
Amended by.... 22000D0020..... Amendment APP9 from 01/07/2000  
Amended by.... 22000D0020..... Amendment APP12 from 01/07/2000

---

Amended by.... 22000D1123(21)..... Replacement APP 10 from  
01/07/2000  
Amended by.... 22000D1123(21)..... Amendment PT 5. B. from  
01/07/2000

**SUB** External relations ; Association ; Public contracts of the European  
Communities

**REGISTER** 11401010

**AUTLANG** The official languages ; Spanish ; Danish ; German ; Greek ; English ;  
French ; Italian ; Dutch ; Portuguese ; Other than Community language ;  
Finnish ; Icelandic ; Norwegian ; Swedish

**DEPOS** Council of the EC - Secretary-General

**MISCINF** Validity : notice of termination of 12 Months

**DATES** of document: 13/12/1993  
of effect: 01/05/1995; LIECHTENSTEIN See OJ L 86/95 P. 59 AR  
of effect: 01/01/1994; Entry into force See Art 129;JO L 1/94 P. 606  
of signature: 02/05/1992; Oporto  
end of validity: 99/99/9999

# ANNEX XVI

## PROCUREMENT

### List provided for in Article 65 (1)

## INTRODUCTION

When the acts referred to in this Annex contain notions or refer to procedures which are specific to the Community legal order, such as

- preambles,
- the addressees of the Community acts,
- references to territories or languages of the EC,
- references to rights and obligations of EC Member States, their public entities, undertakings or individuals in relation to each other, and
- references to information and notification procedures,

Protocol 1 on horizontal adaptations shall apply, unless otherwise provided for in this Annex.

## SECTORAL ADAPTATIONS

1.<sup>{1}</sup> For the purposes of applying Directives 93/36/EEC, 93/37/EEC and 93/38/EEC referred to in this Annex, the following shall apply :

Until such time as they apply free movement of labour in accordance with Article 28 of the Agreement, the Contracting Parties shall ensure :

- effective free access for key employees of contractors of any Contracting Parties who have obtained public works contracts;
- non-discriminatory access to work-permits for contractors from any Contracting Parties who have obtained public works contracts.

2. When the acts referred to in this Annex require the publication of notices or documents the following shall apply:

- (a) the publication of notices and other documents as required by the acts referred to in this Annex in the *Official Journal of the European Communities* and in the Tenders Electronic Daily shall be carried out by the Office for Official Publications of the European Communities;
- (b) notices from the EFTA States shall be sent in at least one of the Community languages to the Office for Official Publications of the European Communities. They shall be published in the Community languages in the S-Series of the *Official Journal of the European Communities* and in the Tenders Electronic Daily. EC notices need not be translated into the languages of the EFTA States.

---

<sup>{1}</sup> References to Directives 93/36/EEC, 93/37/EEC, 93/38/EEC, introduced by Decision No 7/94, replace former references.

3. When applying Part VII, Chapter 3, of the Agreement to surveillance for the purposes of this Annex, the competence for surveillance of alleged infringements lies with the EC Commission if the alleged infringement is committed by a contracting entity in the Community and with the EFTA Surveillance Authority if it is committed by a contracting entity in an EFTA State.

## ACTS REFERRED TO

1. **371 L 0304:** Council Directive 71/304/EEC of 26 July 1971 concerning the abolition of restrictions on freedom to provide services in respect of public works contracts and on the award of public works contracts to contractors acting through agencies of branches (OJ No L 185, 16.8.1971, p. 1).

The provisions of the Directive shall, for the purposes of the present Agreement, be read with the following adaptations :

- (a) the list of professional trade activities shall be replaced by Annex II of Directive 89/440/EEC;
- (b){<sup>2</sup>} with regard to Liechtenstein, the measures necessary to comply with this Directive shall enter into force by 1 January 1996;

[ ]{<sup>3</sup>}

{<sup>4</sup>} during this transition period the application of the Directive will be reciprocally suspended between Liechtenstein and the other Contracting Parties.

- 2.{<sup>5</sup>} **393 L 0037:** Council Directive 93/37/EEC of 14 June 1993 concerning the coordination of procedures for the award of public works contracts (OJ L 199, 9.8.1993, p. 54), as amended by:

- 194 N: Act concerning the conditions of accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden and the adjustments to the Treaties on which the European Union is founded (OJ C 241, 29.8.1994, p. 21, as adjusted by OJ L 1, 1.1.1995, p. 1).
- **397 L 0052:** European Parliament and Council Directive 97/52/EC of 13 October 1997 (OJ L 328, 28.11.1997, p. 1).
- {<sup>6</sup>} **32001 L 0078:** Commission Directive 2001/78/EC of 13 September 2001 (OJ L 285, 29.10.2001, p. 1), as corrected by OJ L 214, 9.8.2002, p. 1.

The provisions of the Directive shall, for the purposes of the present Agreement, be read with the following adaptations:

- (a) in Article 5(a) the phrase "in conformity with the Treaty" shall read "in conformity with the EEA Agreement";

- (b){<sup>7</sup>} Article 25 shall be supplemented as follows:

'- in Iceland, Firmaskrá, Hlutafélagaskrá

{<sup>2</sup>} The words "1 January 1996", introduced by EEA Council Decision No 1/95, replace the words "1 January 1995".

{<sup>3</sup>} Subparagraph deleted by the Adjusting Protocol.

{<sup>4</sup>} Subparagraph as amended by the Adjusting Protocol.

{<sup>5</sup>} Text of point 2 replaced by Decision No 96/1999 (OJ No L 296, 23.11.2000, p. 62 and EEA Supplement No 55, 23.11.2000, p. 172), e.i.f. 1.7.2000.

{<sup>6</sup>} Indent added by Decision No 143/2002 (OJ No L [to be published]), e.i.f. 9.11.2002.

{<sup>7</sup>} Text of adaptation (b) replaced by Decision No 20/2000 (OJ L 103, 12.4.2001, p. 41 and EEA Supplement No 20, 12.4.2001, p.222), e.i.f. 1.7.2000.

- in Liechtenstein, Handelsregister, Gewerberegister,
  - in Norway, Foretaksregisteret'
- (c) Annex I is supplemented by Appendix 1 to this Annex;
- (d) With regard to Liechtenstein, the measures necessary to comply with this Directive shall enter into force by 1 January 1996. During this transitional period the application of the Directive shall be reciprocally suspended between Liechtenstein and the other Contracting Parties.
- 3.{<sup>8</sup>} **393 L 0036:** Council Directive 93/36/EEC of 14 June 1993 coordinating procedures for the award of public supply contracts (OJ L 199, 9.8.1993, p. 1), as amended by:
- **194 N:** Act concerning the conditions of accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden and the adjustments to the Treaties on which the European Union is founded (OJ C 241, 29.8.1994, p. 21, as adjusted by OJ L 1, 1.1.1995, p. 1).
  - **397 L 0052:** European Parliament and Council Directive 97/52/EC of 13 October 1997 (OJ L 328, 28.11.1997, p. 1).
- {<sup>9</sup>} **32001 L 0078:** Commission Directive 2001/78/EC of 13 September 2001 (OJ L 285, 29.10.2001, p. 1), as corrected by OJ L 214, 9.8.2002, p. 1.

The provisions of the Directive shall, for the purposes of the present Agreement, be read with the following adaptations:

- (a) in Article 3 the reference to "Article 223 (1) (b) of the EEC Treaty" shall be replaced by reference to "Article 123 of the EEA Agreement";
- (b) Article 21(2) shall be supplemented as follows:
- in Iceland, hlutafélagaskrá, samvinnufélagaskrá, firmaskrá,
  - in Liechtenstein, Handelsregister, Gewerberegister,
  - in Norway, Foretaksregisteret";
- (c) Annex I to this Directive shall be supplemented by Appendix 2 to this Annex. The Annex referred to in Article 1 (b) of this Directive shall be supplemented by Appendix 1 to this Annex;
- (d) With regard to Liechtenstein, the measures necessary to comply with this Directive shall enter into force by 1 January 1996. During this transitional period the application of the Directive shall be reciprocally suspended between Liechtenstein and the other Contracting Parties.
- 4.{<sup>10</sup>} **393 L 0038:** Council Directive 93/38/EEC of 14 June 1993 coordinating the procurement procedures of entities operating in the water, energy, transport and telecommunications sectors (OJ No L 199, 9.8.1993, p. 84), as amended by:
- {<sup>11</sup>} **194 N:** Act concerning the conditions of accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden and the adjustments to the Treaties on which the European Union is founded (OJ C 241, 29.8.1994, p. 21 as adjusted by OJ L 1, 1.1.1995, p. 1).
  - **398 L 0004:** Directive 98/4/EC of the European Parliament and of the Council of 16 February 1998 (OJ L 101, 1.4.1998, p. 1).
- {<sup>12</sup>} **32001 L 0078:** Commission Directive 2001/78/EC of 13 September 2001 (OJ L 285, 29.10.2001, p. 1), as corrected by OJ L 214, 9.8.2002, p. 1.

{<sup>8</sup>} Text of point 3 replaced by Decision No 96/1999 (OJ No L 296, 23.11.2000, p. 62 and EEA Supplement No 55, 23.11.2000, p. 172), e.i.f. 1.7.2000.

{<sup>9</sup>} Indent added by Decision No 143/2002 (OJ No L [to be published]), e.i.f. 9.11.2002.

{<sup>10</sup>} This point, introduced by Decision No 7/94, replaces former point 4, including amendments thereof by the Adjusting Protocol.

{<sup>11</sup>} Indents and words “, as amended by:” above, added by Decision No 96/1999 (OJ No L 296, 23.11.2000, p. 62 and EEA Supplement No 55, 23.11.2000, p. 172), e.i.f. 1.7.2000.

The provisions of the Directive shall, for the purposes of the present Agreement, be read with the following adaptations :

- (a)<sup>{13}</sup> with regard to Liechtenstein, the measures necessary to comply with this Directive shall enter into force by 1 January 1996.  
with regard to Norway, the measures necessary to comply with this Directive shall enter into force on 1 January 1995 or before upon notification by Norway of having complied with this Directive.
- {14} During these transitional periods the application of the Directive shall be reciprocally suspended between these States and the other Contracting Parties.
- (b) in Article 3 (1) (e) the reference to "Article 36 of the EEC Treaty" shall be read as a reference to "Article 13 of the EEA Agreement";
- (c) in Article 11 the phrase "is compatible with the EEC Treaty" shall read "is compatible with the EEA Agreement";
- (d) in Article 12 (1) the phrase "in conformity with the Treaty" shall read "in conformity with the EEA Agreement";
- (e) [ ]<sup>{15}</sup>
- (f) in Article 34 (5), the reference to "Article 93 (3) of the EEC Treaty" shall be replaced by a reference to "Article 62 of the EEA Agreement";
- (g) in Article 36 the term "third countries" shall be understood as "countries other than the Contracting Parties to the EEA Agreement";
- (h) in Article 36 (1) the term "Community" shall read "Community, as regards Community entities, or the EFTA States, as regards their entities";
- (i) in Article 36 (1) the term "Community undertakings" shall read "Community undertakings, as regards Community agreements, or EFTA States' undertakings, as regards EFTA States' agreements";
- (j) in Article 36 (1) the words "the Community or its Member States in respect of third countries" shall read "either the Community or its Member States in respect of third countries or the EFTA States in respect of third countries";
- (k) in Article 36 (5), the words "by a Council Decision" shall read "by a decision in the context of the general decision-making procedure of the EEA Agreement";
- (l) Article 36 (6) shall read as follows:
- "6. In the context of the general institutional provisions of the EEA Agreement, annual reports shall be submitted on the progress made in multilateral or bilateral negotiations regarding access for Community and EFTA undertakings to the markets of third countries in the fields covered by this Directive, on any result which such negotiations may have achieved, and on the implementation in practice of all the agreements which have been concluded.

<sup>{12}</sup> Indent added by Decision No 143/2002 (OJ No L [to be published]), e.i.f. 9.11.2002.

<sup>{13}</sup> Adaptation regarding Liechtenstein added by EEA Council Decision No 1/95.

<sup>{14}</sup> This sentence, introduced by EEA Council Decision No 1/95, replaces former sentence.

<sup>{15}</sup> Text of adaptation (e) deleted by Decision No 96/1999 (OJ No L 296, 23.11.2000, p. 62 and EEA Supplement No 55, 23.11.2000, p. 172), e.i.f. 1.7.2000.

In the context of the general decision-making procedure of the EEA Agreement the provisions of this Article may be amended in the light of such developments.";

- (m) in order to enable the contracting entities in the EEA to apply Article 36 (2) and (3), the Contracting Parties shall ensure that the suppliers established in their respective territories determine the origin of the products in their tenders for supply contracts in conformity with Regulation (EEC) No 802/68 of the Council of 27 June 1968 on the common definition of the concept of the origin of goods (OJ No L 148, 28.6.1968, p. 1);
- (n) in order to obtain maximum convergence Article 36 will be applied in the EEA context on the understanding that:
  - the operation of paragraph (3) is without prejudice to the existing degree of liberalization towards third countries,
  - the Contracting Parties consult closely in their negotiations with third countries.

The application of this regime will be jointly reviewed during 1996;

- (o) Article 37 shall not apply;
- (p) [ ]<sup>{16}</sup>
- (q)<sup>{17}</sup> Annexes I to X are supplemented by Appendices 3 to 12 to this Annex, respectively,
- (r)<sup>{18}</sup> in Article 1 of Directive 98/4/EC the word "Community" shall be replaced by the following "Community and the EFTA States which are signatory to the Agreement".

4a.<sup>{19}</sup> **393 D 0327:** Commission Decision 93/327/EEC of 13 May 1993 defining the conditions under which contracting entities exploiting geographical areas for the purpose of exploring for or extracting oil, gas, coal or other solid fuels must communicate to the Commission information relating to the contracts they award (OJ No L 129, 27.5.1993, p. 25).

<sup>{20}</sup>The provisions of the Decision shall, for the purposes of the present Agreement, be read with the following adaptation:

With regard to Liechtenstein, the measures necessary to comply with this Decision shall enter into force by 1 January 1996. During this transitional period the application of the Decision shall be reciprocally suspended between Liechtenstein and the other Contracting Parties.

5. **389 L 0665:** Council Directive 89/665/EEC of 21 December 1989 on the coordination of the laws, regulations and administrative provisions relating to the application of review procedures to the award of public supply and public works contracts (OJ No L 395, 30.12.1989, p. 33).

The provisions of the Directive shall, for the purposes of the present Agreement, be read with the following adaptations :

- (a) with regard to Liechtenstein, the measures necessary to comply with this Directive shall enter into force by 1 January 1996<sup>{21}</sup>,

[ ]<sup>{22}</sup>

<sup>{16}</sup> Text of adaptation (p) deleted by Decision No 96/1999 (OJ No L 296, 23.11.2000, p. 62 and EEA Supplement No 55, 23.11.2000, p. 172), e.i.f. 1.7.2000.

<sup>{17}</sup> Text of adaptation (q) replaced by Decision No 96/1999 (OJ No L 296, 23.11.2000, p. 62 and EEA Supplement No 55, 23.11.2000, p. 172), e.i.f. 1.7.2000.

<sup>{18}</sup> Adaptation (r) added by Decision No 96/1999 (OJ No L 296, 23.11.2000, p. 62 and EEA Supplement No 55, p. 172), e.i.f. 1.7.2000.

<sup>{19}</sup> Point inserted by Decision No 7/94.

<sup>{20}</sup> Adaptation added by EEA Council Decision No 1/95.

<sup>{21}</sup> The words "1 January 1996", introduced by EEA Council Decision No 1/95, replace former words "1 January 1995".

during this transition period<sup>{23}</sup> the application of the Directive will be reciprocally suspended between Liechtenstein and the other Contracting Parties;

- (b) in Article 2 (8), the reference to "Article 177 of the EEC Treaty" shall be read as by a reference to the "criteria laid down by the Court of Justice in its interpretation of Article 177 of the EEC Treaty" <sup>(1)</sup>.

- (1) Examples: Case 61/65 Vaassen v. Beambtenfonds Mijnbedrijf [1966] E.C.R. 261; [1966] C.M.L.R. 508; Case 36/73 Nederlandse Spoorwegen v. Minister van Verkeer en Waterstaat [1973] E.C.R. 1299; [1974] 2 C.M.L.R. 148; Case 246/80 Broekmeulen v. Huisarts Registratie Commissie [1981] E.C.R. 2311; [1982] 1 C.M.L.R. 91.

5a.<sup>{24}</sup> **392 L 0013:** Council Directive 92/13/EEC of 25 February 1992 coordinating the laws, regulations and administrative provisions relating to the application of Community rules on the procurement procedures of entities operating in the water, energy, transport and telecommunications sectors (OJ No L 76, 23.3.1992, p. 14), as amended by:

- <sup>{25}</sup> **194 N:** Act concerning the conditions of accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden and the adjustments to the Treaties on which the European Union is founded (OJ C 241, 29.8.1994, p. 21 as adjusted by OJ L 1, 1.1.1995, p. 1).

The provisions of the Directive shall, for the purposes of the present Agreement, be read with the following adaptations:

- (a)<sup>{26}</sup> With regard to Liechtenstein and Norway, the measures necessary to comply with this Directive shall enter into force at the same time as Council Directive 93/38/EEC, in accordance with Annex XVI to the EEA Agreement. During these transitional periods, the application of the Directive shall be reciprocally suspended between these States and other Contracting Parties;
- (b) in Article 2 (9), the reference to "Article 177 of the Treaty" shall be read as a reference to the "criteria laid down by the Court of Justice in its interpretation of Article 177 of the EEC Treaty" <sup>(2)</sup>;
- (c) in Article 11 (2) (a), the reference to "Articles 169 or 170 of the Treaty" shall read "Articles 169 or 170 of the EEC Treaty and the corresponding procedures set out in the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice";
- (d)<sup>{27}</sup> the Annex to the Directive is supplemented by Appendix 13 to this Annex.

- (<sup>2</sup>) See EEA Agreement adaptation (b) to Council Directive 89/665/EEC under point 5, footnote 1.

5b.<sup>{28}</sup> **392 L 0050:** Council Directive 92/50/EEC of 18 June 1992 relating to the coordination of procedures for the award of public service contracts (OJ No L 209, 24.7.1992, p. 1), as amended by:

- <sup>{29}</sup> **194 N:** Act concerning the conditions of accession of the Republic of Austria, the Republic of

<sup>{22}</sup> Subparagraph deleted by the Adjusting Protocol.

<sup>{23}</sup> Subparagraph as amended by the Adjusting Protocol.

<sup>{24}</sup> Point inserted by Decision No 7/94.

<sup>{25}</sup> Indent and words "as amended by:" above, added by Decision No 96/1999 (OJ No L 296, 23.11.2000, p. 62 and EEA Supplement No 55, 23.11.2000, p. 172), e.i.f. 1.7.2000.

<sup>{26}</sup> This adaptation, introduced by EEA Council Decision No 1/95, replaces former adaptation (a).

<sup>{27}</sup> Text of adaptation (d) replaced by Decision No 96/1999 (OJ No L 296, 23.11.2000, p. 62 and EEA Supplement No 55, 23.11.2000, p. 172), e.i.f. 1.7.2000.

<sup>{28}</sup> Point inserted by Decision No 7/94.

<sup>{29}</sup> Indents and words "as amended by:" above, added by Decision No 96/1999 (OJ No L 296, 23.11.2000, p. 62 and EEA Supplement No 55, 23.11.2000, p. 172), e.i.f. 1.7.2000.

Finland and the Kingdom of Sweden and the adjustments to the Treaties on which the European Union is founded (OJ C 241, 29.8.1994, p. 21 as adjusted by OJ L 1, 1.1.1995, p. 1).

- **397 L 0052**: European Parliament and Council Directive 97/52/EC of 13 October 1997 (OJ L 328, 28.11.1997, p. 1).
- <sup>{30}</sup> **32001 L 0078**: Commission Directive 2001/78/EC of 13 September 2001 (OJ L 285, 29.10.2001, p. 1), as corrected by OJ L 214, 9.8.2002, p. 1.

The provisions of the Directive shall, for the purpose of the present Agreement, be read with the following adaptations:

- (a) In Article 4 (1), the reference to "Article 223 of the Treaty" shall be replaced by a reference to "Article 123 of the EEA Agreement";
  - (b)<sup>{31}</sup> Article 30(3) shall be supplemented as follows:
    - “- in Iceland, Firmaskrá, Hlutafélagaskrá,
    - in Liechtenstein, Handelsregister, Gewerberegister,
    - in Norway, Foretaksregisteret."
  - (c)<sup>{32}</sup> With regard to Liechtenstein, the measures necessary to comply with this Directive shall enter into force by 1 January 1996. During this transitional period the application of the Directive shall be reciprocally suspended between Liechtenstein and the other Contracting Parties.
  - (d)<sup>{33}</sup> in Article 1 of Directive 97/52/EC the word "Community" shall be replaced by the following "Community and the EFTA States which are signatory to the Agreement".
6. **371 R 1182**: Regulation (EEC/Euratom) No 1182 of 3 June 1971 determining the rules applicable to periods, dates and time limits (OJ No L 124, 8.6.1971, p. 1)<sup>(1)</sup>

The provisions of the Regulation shall, for the purposes of the present Agreement, be read with the following adaptations :

- (a) with regard to Liechtenstein, the measures necessary to comply with this Regulation shall enter into force by 1 January 1996<sup>{34}</sup>,
    - [ ]<sup>{35}</sup>
 during this transition period<sup>{36}</sup> the application of the Regulation will be reciprocally suspended between Liechtenstein and the other Contracting Parties;
  - (b) the words "Council and Commission acts" shall mean acts referred to in this Annex.
- (1) Article 30 of Directive 71/305/EEC and Article 28 of Directive 77/62/EEC refer to this Regulation which needs therefore to be part of the 'acquis'.

<sup>{30}</sup> Indent added by Decision No 143/2002 (OJ No L [to be published]), e.i.f. 9.11.2002.

<sup>{31}</sup> Adaptation (b) replaced by Decision No 96/1999 (OJ No L 296, 23.11.2000, p. 62 and EEA Supplement No 55, 23.11.2000, p. 172), e.i.f. 1.7.2000.

<sup>{32}</sup> Adaptation added by EEA Council Decision No 1/95.

<sup>{33}</sup> Adaptation added by Decision No 96/1999 (OJ No L 296, 23.11.2000, p. 62 and EEA Supplement No 55, 23.11.2000, p. 172), e.i.f. 1.7.2000.

<sup>{34}</sup> The words "1 January 1996", introduced by EEA Council Decision No 1/95, replace former words "1 January 1995".

<sup>{35}</sup> Subparagraph deleted by the Adjusting Protocol.

<sup>{36}</sup> Subparagraph as amended by the Adjusting Protocol.

## ACTS OF WHICH THE CONTRACTING PARTIES SHALL TAKE NOTE

In the application of the provisions of this Annex, the Contracting Parties shall take note of the contents of the following acts :

7. Guide to the Community rules on open public procurement (OJ No C 358, 21.12.1987, p. 1)
8. Commission communication (COM(89)400 of 27.7.1989) on regional and social aspects (OJ No C 311, 12.12.1989, p. 7).
- 9.<sup>{37}</sup> **391 X 0561**: Commission recommendation 91/561/EEC of 24 October 1991 on the standardization of notices of public contracts (OJ No L 305, 6.11.1991, p. 19).
- 10.<sup>{38}</sup> **592 DC 0722s**: Commission communication to the Council of 1 June 1992 on SME participation in public procurement in the Community (SEC(92) 722 final of 1 June 1992).
- 11.<sup>{39}</sup> Commission communication of 30 December 1992 on the forms to be used by contracting entities concerned by the entry into force of Directive 90/531/EEC (OJ No S 252 A, 30.12.1992, p. 1).

### APPENDIX 1<sup>{40}</sup>

#### LISTS OF BODIES AND CATEGORIES OF BODIES GOVERNED BY PUBLIC LAW

- I. In ICELAND:
 

central purchasing entities not having an industrial or commercial character governed by *lög um skipan opinberra framkvæmda nr. 52/1970* and *lög um opinber innkaup nr. 52/1997, með síðari breytingum* and *reglugerð nr. 302/1996*

Bodies

Ríkiskaup (State Trading Centre),  
 Framkvæmdasýslan (Government Construction Contracts),  
 Vegagerð ríkisins (Public Road Administration),  
 Siglingastofnun (Icelandic Maritime Administration),  
 Íslandspóstur hf (Icelandic Post Ltd),  
 Innkaupastofnun Reykjavíkurborgar (Reykjavík Purchasing Centre).

Categories

Sveitarfélög (Municipalities).
- II. In LIECHTENSTEIN:
 

die öffentlich-rechtlichen Verwaltungseinrichtungen auf Landes- und Gemeindeebene (Authorities, establishments and foundations governed by public law and established at national and municipal level).
- III. In NORWAY:
 

offentlige eller offentlig kontrollerte organer eller virksomheter som ikke har en industriell eller kommersiell karakter (Public or publicly controlled entities or undertakings not having an industrial or commercial character).

Bodies

– Norsk Rikskringkasting (Norwegian Broadcasting Corporation),

<sup>{37}</sup> Point inserted by Decision No 7/94.

<sup>{38}</sup> Point inserted by Decision No 7/94.

<sup>{39}</sup> Point inserted by Decision No 7/94.

<sup>{40}</sup> Appendix 1 replaced by Decision No 96/1999 (OJ No L 296, 23.11.2000, p. 62 and EEA Supplement No 55, 23.11.2000, p. 172), e.i.f. 1.7.2000.

- Norges Bank (Central Bank),
- Statens lånekasse for utdanning (State Educational Loan Fund),
- Statistisk sentralbyrå (Central Bureau of Statistics),
- Den norske stats Husbank (Norwegian State Housing Bank),
- [ ]<sup>{41}</sup>
- [ ]<sup>{42}</sup>
- <sup>{43}</sup>Norges forskningsråd (The Research Council of Norway),
- Statens Pensjonskasse (Norwegian Public Pension Fund).

Categories<sup>{44}</sup>

- statsbedrifter i henhold til lov om statsforetak (LOV 1991-08-30 71) (State enterprises),
- statsbanker (State banks),
- universiteter og høyskoler i henhold til lov om universiteter og høyskoler (LOV 1995-05-12 22) (Universities).

*APPENDIX 2<sup>{45}</sup>*

**LIST OF CONTRACTING AUTHORITIES SUBJECT TO THE AGREEMENT IN ACCORDANCE WITH ANNEX I THERETO**

(CENTRAL GOVERNMENT AUTHORITIES)

ICELAND

LIST OF CONTRACTING AUTHORITIES EQUIVALENT TO THOSE COVERED BY THE AGREEMENT IN ACCORDANCE WITH ANNEX I THERETO

Central purchasing entities not having an industrial or commercial character governed by *lög um opinber innkaup nr. 52/1987, með síðari breytingum* and *reglugerð nr. 302/1996*.

Ríkiskaup (State Trading Centre),  
 Framkvæmdasýslan (Government Construction Contracts),  
 Vegagerð ríkisins (Public Road Administration),  
 Íslandspóstur hf (Icelandic Post Ltd).

LIECHTENSTEIN

1. Regierung des Fürstentums Liechtenstein

<sup>{41}</sup> Entry deleted by Decision No 20/2000 (OJ L 103, 12.4.2001, p. 41 and EEA Supplement No 20, 12.4.2001, p.222), e.i.f. 1.7.2000.

<sup>{42}</sup> Entry deleted by Decision No 20/2000 (OJ L 103, 12.4.2001, p. 41 and EEA Supplement No 20, 12.4.2001, p.222), e.i.f. 1.7.2000.

<sup>{43}</sup> Entry replaced by Decision No 20/2000 (OJ L 103, 12.4.2001, p. 41 and EEA Supplement No 20, 12.4.2001, p.222), e.i.f. 1.7.2000.

<sup>{44}</sup> Entries replaced by Decision No 20/2000 (OJ L 103, 12.4.2001, p. 41 and EEA Supplement No 20, 12.4.2001, p.222), e.i.f. 1.7.2000.

<sup>{45}</sup> Appendix 2 replaced by Decision No 96/1999 (OJ No L 296, 23.11.2000, p. 62 and EEA Supplement No 55, 23.11.2000, p. 172), e.i.f. 1.7.2000.

[ ]<sup>{46}</sup>

---

<sup>{46}</sup> Entry 2. deleted with effect from 1 January 2000, by Decision No 20/2000 (OJ L 103, 12.4.2001, p. 41 and EEA Supplement No 20, 12.4.2001, p.222), e.i.f. 1.7.2000.

## NORWAY

**Statsministerens kontor****Arbeids- og administrasjonsdepartementet**

Arbeidsdirektoratet  
Arbeidsforskningsinstituttet  
Arbeidstilsynet  
Statsbygg  
Konkurransetilsynet  
Statens forvaltningstjeneste  
Statens informasjonstjeneste  
Statskonsult

**Barne- og familiedepartementet**

Barneombudet  
Forbrukerombudet  
Forbrukerrådet  
Likestillingsombudet  
Likestillingsrådet  
{<sup>47</sup>}Statens ungdoms- og adopsjonskontor  
Statens institutt for forbruksforskning

**Finans- og tolldepartementet**

Kredittilsynet  
  
Skattedirektoratet  
Oljeskattekontoret  
Toll- og avgiftsdirektoratet

**Fiskeridepartementet**

Fiskeridirektoratet  
Havforskningsinstituttet  
Kystdirektoratet

**Forsvarsdepartementet**

Forsvarets bygningstjeneste  
Forsvarets tele- og datatjeneste  
  
Forsvarets forskningsinstitutt  
Forsvarets overkommando  
Hærens forsyningskommando  
Luftforsvarets forsyningskommando  
Sjøforsvarets forsyningskommando  
Forsvarets sanitet

**Justis- og politidepartementet**

Brønnøysundregistrene  
Datatilsynet  
Direktoratet for sivilt beredskap  
{<sup>48</sup>}Riksadvokatembetet  
Statsadvokatembetene  
Politiet  
Domstolene  
Fengselsvesenet

**Kirke-, utdannings- og forskningsdepartementet**

Det norske meteorologiske institutt  
Kirkerådet  
Lærerutdanningsrådet  
Bispedømmerådet

**Office of the Prime Minister****Ministry of Labour and Administration**

Directorate of Labour  
Work Research Institute  
Directorate of Labour Inspection  
The Directorate of Public Construction and Property  
Norwegian Competition Authority  
Government Administration Services  
Norwegian Central Information Service  
Directorate of Public Management

**Ministry of Children and Family Affairs**

Commissioner for Children  
Consumer Ombudsman  
Consumer Council  
Equal Status Ombudsmann  
Equal Status Council  
Government Office of Youth and Adoption  
National Institute for Consumer Research

**Ministry of Finance**

The Banking, Insurance and Securities Commission of Norway  
Directorate of Taxes  
Petroleum Tax Office  
Directorate of Customs and Excise

**Ministry of Fisheries**

Directorate of Fisheries  
Institute of Marine Research  
Coast Directorate

**Ministry of Defence**

Norwegian Defence Construction Service  
Norwegian Defence Communications and Data Services Administration  
Norwegian Defence Research Establishment  
Headquarters Defence Command Norway  
Army Material Command  
Airforce Material Command  
Navy Material Command  
Norwegian Defence Medical Service

**Ministry of Justice (and the Police)**

The Brønnøysund Register Centre  
The Data Inspectorate  
The Directorate for Civil Defence and Emergency Planning  
Director of Public Prosecutions  
Office of the District public Prosecutor  
Police Services  
The Courts of Justice  
The Prison Administration

**Ministry of Education, Research and Church Affairs.**

Norwegian Meteorological Institute  
National Council of the Church of Norway  
Teacher Training Council  
Diocesan Council

{<sup>47</sup>} Entry replaced by Decision No 20/2000 (OJ L 103, 12.4.2001, p. 41 and EEA Supplement No 20, 12.4.2001, p.222), e.i.f. 1.7.2000.

{<sup>48</sup>} Entry replaced by Decision No 20/2000 (OJ L 103, 12.4.2001, p. 41 and EEA Supplement No 20, 12.4.2001, p.222), e.i.f. 1.7.2000.

Norsk Utenrikspolitisk Institutt Norsk voksenpedagogisk forskningsinstitutt Riksbibliotekstjenesten	Norwegian Institute of International Affairs Norwegian Institute of Adult Education National Office for Research and Special Libraries
Samisk utdanningsråd	Sami Education Council
<b>Kommunal- og Regionaldepartementet</b>	<b>Ministry of Local Government and the Regions</b>
Direktoratet for brann og eksplosjonsvern Produktregisteret Statens bygningstekniske etat	Directorate for Fire and Explosion Prevention The Product Register National Office of Building Technology and Administration
Utlendingsdirektoratet Produkt- og elektrisitetstilsynet Fylkesmannsembedene	Directorate of Immigration The Norwegian Directorate for Product and Electrical Safety the County Governors
<b>Kulturdepartementet</b>	<b>Ministry of Cultural Affairs</b>
{ <sup>49</sup> }Eierskapstilsynet Norsk filminstitutt Norsk kulturråd Norsk språkråd Riksarkivet Statsarkivene Rikskonsertene	Norwegian Media Ownership Authority National Film Board Norwegian Cultural Council Norwegian Language Council National Archives of Norway National Archives, Regional Divisions Norwegian State Foundation for National Promotion of Music
Statens bibliotektilsyn	Norwegian Directorate of Public and School Libraries
Statens filmtilsyn [ ] { <sup>50</sup> }	Norwegian Directorate of Public and School Libraries National Board of Film Censors
<b>Landbruksdepartementet</b>	<b>Ministry of Agriculture</b>
Norsk institutt for skogforskning { <sup>51</sup> }Reindrifftsforvaltningen Statens dyrehelsetilsyn Statens næringsmiddeltilsyn Statens landbrukstilsyn Veterinærinstituttet	Norwegian Forest Research Institute Directorate for Reindeer Husbandry Norwegian Animal Health Authority The Norwegian Food Control Authority National Agricultural Inspection Services National Veterinary Institute
<b>Miljøverndepartementet</b>	<b>Ministry of the Environment</b>
Direktoratet for naturforvaltning Norsk polarinstitutt Riksantikvaren Statens forurensningstilsyn Statens kartverk	Directorate of Nature Management Norwegian Polar Research Institute Directorate for Cultural Heritage State Pollution Control Authority Norwegian Mapping Authority
<b>Nærings- og handelsdepartementet</b>	<b>Ministry of Trade and Industry</b>
Justervesenet Norges geologiske undersøkelse Statens veiledningskontor for oppfinnere	Norwegian Metrology and Accreditation Service Geological Survey of Norway Norwegian Government Consultative Office for Inventors
Patentstyret (Styret for det industrielle rettsvern) Bergvesenet Sjøfartsdirektoratet Skipsregistrene	Norwegian Patent Office The Mining Service Norwegian Maritime Directorate Norwegian International Ship Register
<b>Olje- og energidepartementet</b>	<b>Ministry of Petroleum and Energy</b>
Norges vassdrags- og energidirektorat  Oljedirektoratet	Norwegian Water Resources and Energy Directorate  Norwegian Petroleum Directorate

{<sup>49</sup>} Entry added by Decision No 20/2000 (OJ L 103, 12.4.2001, p. 41 and EEA Supplement No 20, 12.4.2001, p.222), e.i.f. 1.7.2000.

{<sup>50</sup>} Entry "Statens Filmsentral" deleted by Decision No 20/2000 (OJ L 103, 12.4.2001, p. 41 and EEA Supplement No 20, 12.4.2001, p.222), e.i.f. 1.7.2000.

{<sup>51</sup>} Entry replaced by Decision No 20/2000 (OJ L 103, 12.4.2001, p. 41 and EEA Supplement No 20, 12.4.2001, p.222), e.i.f. 1.7.2000.

<p><b>Samferdselsdepartementet</b> Statens vegvesen {<sup>52</sup>} Post- og teletilsynet</p> <p><b>Sosial- og helsedepartementet</b> Statens institutt for folkehelse Statens helsetilsyn Rikshospitalet Radiumhospitalet Rikstrygdeverket Rusmiddeldirektoratet</p> <p>Statens helseundersøkelser Statens institutt for alkohol- og Narkotikaforskning Statens legemiddelkontroll Statens strålevern Statens tobakksskaderåd</p> <p><b>Utenriksdepartementet</b></p> <p><b>Stortinget</b> Sivilombudsmannen – Stortingets ombudsmann for forvaltningen Riksrevisjonen <b>Høyesterett</b></p>	<p><b>Ministry of Transport and Communication</b> Public Roads Administration Norwegian Post and Telecommunication Authority</p> <p><b>Ministry of Health and Social Affairs</b> National Institute of Public Health Norwegian Board of Health National Hospital Norwegian Radium Hospital National Insurance Administration Directorate for the Prevention of Alcohol and Drug Problems National Health Screening Service National Institute for Alcohol and Drug Research</p> <p>Norwegian Medicines Control Authority Norwegian Radiation Protection Authority National Council on Smoking and Health</p> <p><b>Ministry of Foreign Affairs</b></p> <p><b>The Storting (the Parliament)</b> Stortinget's Ombudsman for Public Administration Office of the Auditor General <b>Supreme Court</b></p>
--	--

### APPENDIX 3<sup>{53}</sup>

#### PRODUCTION, TRANSPORT OR DISTRIBUTION OF DRINKING WATER

##### ICELAND

Entities producing or distributing water pursuant to *lög nr. 81/1991, um vatnsveitur sveitarfélaga*.

##### LIECHTENSTEIN

Gruppenwasserversorgung Liechtensteiner Oberland.  
Wasserversorgung Liechtensteiner Unterland.

##### NORWAY

Entities producing or distributing water pursuant to Forskrift om drikkevann og vannforsyning (FOR 1995-01-01 Nr 68).

### APPENDIX 4

#### PRODUCTION, TRANSPORT OR DISTRIBUTION OF ELECTRICITY

##### ICELAND<sup>{54}</sup>

Landsvirkjun (the National Power Company), *lög nr. 42/1983*;

<sup>{52}</sup> Entry replaced by Decision No 20/2000 (OJ L 103, 12.4.2001, p. 41 and EEA Supplement No 20, 12.4.2001, p.222), e.i.f. 1.7.2000.

<sup>{53}</sup> Appendix 3 deleted, Appendices 4 to 14 replaced and renumbered by Decision No 96/1999 (OJ No L 296, 23.11.2000, p. 62 and EEA Supplement No 55, 23.11.2000, p. 172), e.i.f. 1.7.2000.

<sup>{54}</sup> Entries replaced by Decision No 20/2000 (OJ L 103, 12.4.2001, p. 41 and EEA Supplement No 20, 12.4.2001, p.222), e.i.f. 1.7.2000.

Rafmagnsveitur ríkisins (the State Electric Power Works), *orkulög nr. 58/1967*;

Orkuveita Reykjavíkur (Reykjavík Energy), *lög nr. 38/1940*;

Hitaveita Suðurnesja (Suðurnes Regional Heating), *lög nr. 100/1974*;

Orkubú Vestfjarða (Vestfjord Power Company), *lög nr. 66/1976*;

Other entities producing, transporting or distributing electricity pursuant to *orkulög nr. 58/1967*.

#### LIECHTENSTEIN

Liechtensteinische Kraftwerke.

#### NORWAY

Entities producing, transporting or distributing electricity pursuant to [ ] <sup>{55}</sup> *Lov om erverv av vannfall, bergverk og annen fast eiendom m.v., kap. I, jf. kap.V (LOV 1917-12-14 16, kap. I), or Vassdragsreguleringsloven (LOV 1917-12-14 17) or Energiloven (LOV 1990-06-29 50).*

### APPENDIX 5

#### TRANSPORT OR DISTRIBUTION OF GAS OR HEAT

##### ICELAND<sup>{56}</sup>

Orkuveita Reykjavíkur (Reykjavík Energy), *lög nr. 38/1940*.

Hitaveita Suðurnesja (Suðurnes Regional Heating), *lög nr. 100/1974*.

Other entities transporting or distributing heat pursuant to *orkulög nr. 58/1967*.

#### LIECHTENSTEIN

Liechtensteinische Gasversorgung.

#### NORWAY

Entities transporting or distributing heat pursuant to *Lov om produksjon, omforming, overføring, omsetning og fordeling av energi m.m (LOV 1990-06-29 50) (Energiloven).*

### APPENDIX 6

#### EXPLORATION FOR AND EXTRACTION OF OIL AND GAS

##### ICELAND

-

##### LIECHTENSTEIN

-

##### NORWAY

---

<sup>{55}</sup> Text deleted by Decision No 20/2000 (OJ L 103, 12.4.2001, p. 41 and EEA Supplement No 20, 12.4.2001, p.222), e.i.f. pending.

<sup>{56}</sup> Entries replaced by Decision No 20/2000 (OJ L 103, 12.4.2001, p. 41 and EEA Supplement No 20, 12.4.2001, p.222), e.i.f. 1.7.2000.

Contracting entities covered by *Lov om petroleumsvirksomhet (LOV 1996-11-29 72)* (Petroleum Act) and regulations pursuant to the Petroleum Act or by *Lov om undersøkelse etter og utvinning av petroleum i grunnen under norsk landområde (LOV 1973-05-04 21)*.

#### APPENDIX 7

##### EXPLORATION FOR AND EXTRACTION OF COAL OR OTHER SOLID FUELS

ICELAND

–

LIECHTENSTEIN

–

NORWAY

–

#### APPENDIX 8

##### CONTRACTING ENTITIES IN THE FIELD OF RAILWAY SERVICES

ICELAND

–

LIECHTENSTEIN

–

NORWAY

*Norges Statsbaner (NSB)* and entities operating pursuant to *Lov om anlegg og drift av jernbane, herunder sporvei, tunnelbane og forstadsbane m.m (LOV 1993-06-11 100)* (Jernbaneloven).<sup>57</sup>

#### APPENDIX 9

##### CONTRACTING ENTITIES IN THE FIELD OF URBAN RAILWAY, TRAMWAY, TROLLEY BUS OR BUS SERVICES

ICELAND<sup>{57}</sup>

Strætisvagnar Reykjavíkur (the Reykjavík Municipal Bus Service)

Almenningsvagnar bs.

---

<sup>{57}</sup> Entries replaced by Decision No 20/2000 (OJ L 103, 12.4.2001, p. 41 and EEA Supplement No 20, 12.4.2001, p.222), e.i.f. 1.7.2000.

Other municipal bus services

Land transporting entities operating pursuant to Article 3 of *lög nr. 13/1999 skipulag á fólksfutningum með hópferðabifreiðum*.

LIECHTENSTEIN<sup>{58}</sup>

Liechtenstein Bus Anstalt (the Liechtenstein bus institution)

NORWAY

*NSB BA* and land transport entities operating pursuant to *Lov om anlegg og drift av jernbane, herunder sporvei, tunnelbane og forstadsbane m.m (LOV 1993-06-11 100)* (Jernbaneloven).<sup>7</sup>

## APPENDIX 10

### CONTRACTING ENTITIES IN THE FIELD OF AIRPORT FACILITIES

ICELAND

Flugmálastjórn (Directorate of Civil Aviation)

LIECHTENSTEIN

–

NORWAY

Entities providing airport facilities pursuant to *Luftfartsloven (LOV 1993-06-11 101)*.

## APPENDIX 11

### CONTRACTING ENTITIES IN THE FIELD OF MARITIME OR INLAND PORT OR OTHER TERMINAL FACILITIES

ICELAND

Siglingastofnun, (Icelandic Maritime Administration).

Other entities operating pursuant to *Hafnalög nr. 23/1994*.

LIECHTENSTEIN

–

NORWAY

*Norges Statsbaner (NSB)* (Railway terminals).

Entities operating pursuant to *Havneloven (LOV 1984-06-08 51)*.

## APPENDIX 12

---

<sup>{58}</sup> Entry replaced by Decision No 20/2000 (OJ L 103, 12.4.2001, p. 41 and EEA Supplement No 20, 12.4.2001, p.222), e.i.f. 1.7.2000.

---

**OPERATION OF TELECOMMUNICATIONS NETWORKS OR PROVISION OF TELECOMMUNICATIONS SERVICES****ICELAND**

Landssími Íslands hf (Icelandic Telecom Ltd).

**LIECHTENSTEIN<sup>{59}</sup>**

Liechtenstein TeleNet AG (the Liechtenstein Telenet Corp.)

**NORWAY**

Entities operating pursuant to *Lov om telekommunikasjon (LOV 1995-06-23 39)*.

**APPENDIX 13****NATIONAL AUTHORITIES TO WHICH REQUESTS FOR APPLICATION OF THE CONCILIATION PROCEDURE REFERRED TO IN ARTICLE 9 OF COUNCIL DIRECTIVE 92/13/EEC MAY BE ADDRESSED****ICELAND**

Fjármálaráðuneytið (Ministry of Finance).

**LIECHTENSTEIN<sup>{60}</sup>**

Regierung des Fürstentums Liechtenstein (Government of the Principality of Liechtenstein).

**NORWAY**

Nærings- og handelsdepartementet (Ministry of Trade and Industry).

---

<sup>{59}</sup> Entry replaced by Decision No 20/2000 (OJ L 103, 12.4.2001, p. 41 and EEA Supplement No 20, 12.4.2001, p.222), e.i.f. 1.7.2000.

<sup>{60}</sup> Entry replaced by Decision No 20/2000 (OJ L 103, 12.4.2001, p. 41 and EEA Supplement No 20, 12.4.2001, p.222), e.i.f. 1.7.2000.

---

**Values of thresholds in the field of public procurement applicable from 1 July 2000**

Values of thresholds in the field of public procurement applicable from 1 July 2000

(2000/C 368/23)

1. The values of thresholds applicable as of 1 July 2000 for public supplies contracts pursuant to the Act referred to in point 3 of Annex XVI to the EEA Agreement (Council Directive 93/36/EEC), as amended by decision of the EEA Joint Committee No 96/1999 of 16 July 1999 amending Annex XVI (procurement) to the EEA Agreement, are as follows:

	EUR 200 000	EUR 750 000	EUR 139 312	EUR 214 326
			(SDR 130 000)	(SDR 200 000)
Icelandic krona	15 827 204	59 352 015	11 024 597	16 960 907
Schweizer Franken (Liechtenstein)	322 780	1 210 425	224 836	345 901
Norwegian krone	1 670 000	6 262 500	1 163 255	1 789 622

2. The values of thresholds applicable as of 1 July 2000 for public works contracts pursuant to the Act referred to in point 2 of Annex XVI to the EEA Agreement (Council Directive 93/37/EEC), as amended by decision of the EEA Joint Committee No 96/1999 of 16 July 1999 amending Annex XVI (procurement) to the EEA Agreement, are as follows:

---

	EUR 1 000 000	EUR 5 000 000	EUR 5 358 153 (SDR 5 000 000)
Icelandic krona	79 136 020	396 680 000	424 022 903
Schweizer Franken (Liechtenstein)	1 613 900	8 069 500	8 642 709
Norwegian kronc	8 350 000	41 750 000	44 740 578

3. The values of thresholds applicable as of 1 July 2000 for public services contracts pursuant to the Act referred to in point 5b of Annex XVI to the [EEA](#) Agreement (Council Directive 92/50/EEC), as amended by decision of the [EEA](#) Joint Committee No 96/1999 of 16 July 1999 amending Annex XVI ([procurement](#)) to the [EEA](#) Agreement, are as follows:

---

	EUR 80 000	EUR 750 000	EUR 200 000	EUR 139 312	EUR 214 326
				(SDR 130 000)	(SDR 200 000)
Icelandic krona	6 330 882	59 352 015	15 827 204	11 024 597	16 960 907
Schweizer Franken (Liechtenstein)	129 040	1 210 425	322 780	224 836	345 901
Norwegian krone	668 000	6 262 500	1 670 000	1 163 255	1 789 622

4. The values of thresholds applicable as of 1 July 2000 in the utilities sector for supplies contracts and service contracts and for works contracts pursuant to the Act referred to in point 4 of Annex XVI to the [EEA Agreement](#) (Council Directive 93/38/EEC), as amended by decision of the [EEA Joint Committee](#) No 96/1999 of 16 July 1999 amending Annex XVI ([procurement](#)) to the [EEA Agreement](#), are as follows:

---

	EUR 400 000	EUR 600 000	EUR 750 000	EUR 1 000 000	EUR 5 000 000	EUR 428 653 (SDR 400 000)	EUR 5 358 153 (SDR 5 000 000)
Icelandic krona	31 654 408	47 481 612	59 352 015	79 136 020	396 680 100	33 921 892	424 022 903
Schweizer Franken (Lichtenstein)	645 560	968 340	1 210 425	1 613 900	8 065 000	691 803	8 642 709
Norwegian krone	3 340 000	5 010 000	6 262 500	8 350 000	41 750 000	3 579 253	44 740 578

**DOCNUM** 22000D1221(26)

**AUTHOR** Joint Committee [EEA](#)

**FORM** Various acts

**TREATY** European Economic Area

---

**TYPDOC** 2 ;external relations ; 2000 ;D

**PUBREF** Official Journal C 368 , 21/12/2000 P. 0018 - 0019

**DESCRIPT** market prices ; national currency ; public contract ; services contract ;  
supplies contract ; works contract

**PUB** 2000/12/21

**DOC** 2000/12/21

**LEGCIT** 31992L0050.....  
31993L0036.....  
31993L0037.....  
31993L0038.....  
21994A0103(66).....

**SUB** Freedom of establishment and services ; External relations

**REGISTER** 11401010

**DATES** OF DOCUMENT.....: 21/12/2000

[Close window](#)

# ESA/Court Agreement

- [Protocol 2 on the Functions and Powers of the EFTA Surveillance Authority - Procurement](#)
- [Protocol 3 on the functions and powers of the EFTA Surveillance Authority in the field of State aid](#)
- [Protocol 4 on the Functions and Powers of the EFTA Surveillance Authority in the Field of Competition](#)
- [Protocol 5 on the Statute of the EFTA Court](#)
- [Protocol 7 to the ESA-Court Agreement on the Legal Capacity, Privileges and Immunities of the EFTA Court](#)

## **Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice (ESA/Court Agreement) (main part)**

THE REPUBLIC OF ICELAND,

THE PRINCIPALITY OF LIECHTENSTEIN AND

THE KINGDOM OF NORWAY

HAVING REGARD to the EEA Agreement;

CONSIDERING that, in accordance with Article 108(1) of the EEA Agreement, the EFTA States shall establish an independent surveillance authority (EFTA Surveillance Authority) as well as create procedures similar to those existing in the European Community including procedures for ensuring the fulfilment of the obligations under the EEA Agreement and for control of the legality of acts of the EFTA Surveillance Authority regarding competition;

FURTHER CONSIDERING that, in accordance with Article 108(2) of the EEA Agreement, the EFTA States shall establish a court of justice of the EFTA States;

RECALLING the objective of the Contracting Parties to the EEA Agreement, in full deference to the independence of the courts, to arrive at and maintain a uniform interpretation and application of the EEA Agreement and those provisions of the Community legislation which are substantially reproduced in that Agreement and to arrive at an equal treatment of individuals and economic operators as regards the four freedoms and the conditions of competition;

REITERATING that the EFTA Surveillance Authority and the Commission of the European Communities shall cooperate, exchange information and consult each other on surveillance policy issues and individual cases;

CONSIDERING that the preambles to acts adopted in application of the Treaties establishing the European Economic Community and the European Coal and Steel Community shall, in so far as those acts correspond to the provisions of Protocols 1 to 4 and to the provisions of the acts corresponding to those listed in Annexes I and II to this Agreement, be relevant to the extent necessary for the proper interpretation and application of the provisions of these Protocols and Annexes;

WHEREAS in the application of Protocols 1 to 4 to this Agreement due account shall be paid to the legal and administrative practices of the Commission of the European Communities prior to the entry into force of this Agreement;

HAVE DECIDED to conclude the following Agreement:

## PART I Article 1

For the purposes of this Agreement:

(a) the term 'EEA Agreement' means the main part of the EEA Agreement, its Protocols and Annexes as well as the acts referred to therein;

(b) the term 'EFTA States' means the Republic of Iceland and the Kingdom of Norway and, under the conditions laid down by Article 1(2) of the Protocol Adjusting the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice, the Principality of Liechtenstein.

## Article 2

The EFTA States shall take all appropriate measures, whether general or particular, to ensure fulfilment of the obligations arising out of this Agreement.

They shall abstain from any measure which could jeopardize the attainment of the objectives of this Agreement.

## Article 3

1. Without prejudice to future developments of case law, the provisions of Protocols 1 to 4 and the provisions of the acts corresponding to those listed in Annexes I and II to this Agreement, in so far as they are identical in substance to corresponding rules of the Treaty establishing the European Economic Community and the Treaty establishing the European Coal and Steel Community and to acts adopted in application of these two Treaties, shall in their implementation and application be interpreted in conformity with the relevant rulings of the Court of Justice of the European Communities given prior to the date of signature of the EEA Agreement.

2. In the interpretation and application of the EEA Agreement and this Agreement, the EFTA Surveillance Authority and the EFTA Court shall pay due account to the principles laid down by the relevant rulings by the Court of Justice of the European Communities given after the date of signature of the EEA Agreement and which concern the interpretation of that Agreement or of such rules of the Treaty establishing the European Economic Community and the Treaty establishing the European Coal and Steel Community in so far as they are identical in substance to the provisions of the EEA Agreement or to the provisions of Protocols 1 to 4 and the provisions of the acts corresponding to those listed in Annexes I and II to the present Agreement.

## PART II THE EFTA SURVEILLANCE AUTHORITY Article 4

An independent surveillance authority among the EFTA States, the EFTA Surveillance Authority, is hereby established.

## Article 5

1. The EFTA Surveillance Authority shall, in accordance with the provisions of this Agreement and the provisions of the EEA Agreement and in order to ensure the proper functioning of the EEA Agreement:

- (a) ensure the fulfilment by the EFTA States of their obligations under the EEA Agreement and this Agreement;
- (b) ensure the application of the rules of the EEA Agreement on competition;
- (c) monitor the application of the EEA Agreement by the other Contracting Parties to that Agreement.

2. To this end, the EFTA Surveillance Authority shall:

- (a) take decisions and other measures in cases provided for in this Agreement and in the EEA Agreement;
- (b) formulate recommendations, deliver opinions and issue notices or guidelines on matters dealt with in the EEA Agreement, if that Agreement or the present Agreement expressly so provides or if the EFTA Surveillance Authority considers it necessary;
- (c) carry out cooperation, exchange of information and consultations with the Commission of the European Communities as provided for in this Agreement and the EEA Agreement;
- (d) carry out the functions which, through the application of Protocol 1 to the EEA Agreement, follow from the acts referred to in the Annexes to that Agreement, as specified in Protocol 1 to the present Agreement.

## Article 6

In accordance with the provisions of this Agreement and the EEA Agreement, the EFTA Surveillance Authority may, in carrying out the duties assigned to it, request all the necessary information from the Governments and competent authorities of the EFTA States and from undertakings and associations of undertakings.

## Article 7

The EFTA Surveillance Authority shall consist of three members, who shall be chosen on the grounds of their general competence and whose independence is beyond doubt.

Save as in the circumstances set out in the third paragraph of Article 9 at least two of the three members shall be nationals of the EFTA States.

## Article 8

The members of the EFTA Surveillance Authority shall be completely independent in the performance of their duties. They shall neither seek nor take instructions from any Government or other body. They shall refrain from any action incompatible with their duties. Each EFTA State undertakes to respect this principle and not to seek to influence the members of the EFTA Surveillance Authority in the performance of their tasks.

The members of the EFTA Surveillance Authority shall not, during their term of office, engage in any other occupation, whether gainful or not.

When entering upon their duties they shall give a solemn undertaking that, both during and after their term of office, they will respect the obligations arising therefrom and in particular their duty to behave with integrity and discretion as regards the acceptance, after they have ceased to hold office, of certain appointments or benefits. In the event of any breach of these obligations, the EFTA Court may, on application by the EFTA Surveillance Authority, rule that the member concerned be, according to the circumstances, either compulsorily retired or deprived of his right to a pension or other benefits in its stead.

#### Article 9

The members of the EFTA Surveillance Authority shall be appointed by common accord of the Governments of the EFTA States.

Their term of office shall be four years. It shall be renewable.

In case one of the members, in the opinion of the two other members, is disqualified from acting in a particular case, the two other members shall agree on a person to replace him chosen from a list established by common accord by the Governments of the EFTA States. If they cannot agree that person shall be chosen from the list by lot by the President of the EFTA Court. With regard to a member chosen in this way the rules applicable to regular members shall apply *mutatis mutandis*. In any case Article 8, second paragraph, and Article 10 shall not apply.

#### Article 10

Apart from normal replacement, or death, the duties of a member of the EFTA Surveillance Authority shall end when he resigns or is compulsorily retired. The vacancy thus caused shall be filled for the remainder of the member's term of office.

#### Article 11

If a member of the EFTA Surveillance Authority no longer fulfils the conditions required for the performance of his duties or if he has been guilty of serious misconduct, the EFTA Court may, on application by the EFTA Surveillance Authority, compulsorily retire him.

#### Article 12

The President of the EFTA Surveillance Authority shall be appointed from among its members for a period of two years by common accord of the Governments of the EFTA States.

#### Article 13

The EFTA Surveillance Authority shall adopt its own rules of procedure.

#### Article 14

The EFTA Surveillance Authority shall appoint officials and other servants to enable it to function.

The EFTA Surveillance Authority may consult experts or decide to set up such committees and other bodies as it considers necessary to assist it in accomplishing its tasks.

In the performance of their duties, officials and other servants of the EFTA Surveillance Authority shall neither seek nor accept instructions from any Government or from any body external to the EFTA Surveillance Authority.

Members of the EFTA Surveillance Authority, officials and other servants thereof as well as members of committees shall be required, even after their duties have ceased, not to disclose information of the kind covered by the obligation of professional secrecy, in particular information about undertakings, their business relations or their cost components.

#### Article 15

The EFTA Surveillance Authority shall act by majority of its Members.

The rules of procedure shall determine the quorum.

#### Article 16

Decisions of the EFTA Surveillance Authority shall state the reasons on which they are based.

#### Article 17

Save as otherwise provided in this Agreement or in the EEA Agreement, decisions of the EFTA Surveillance Authority shall be notified to those to whom they are addressed and shall take effect upon such notification.

#### Article 18

Decisions of the EFTA Surveillance Authority shall be published in accordance with the provisions of this Agreement and of the EEA Agreement.

#### Article 19

Decisions of the EFTA Surveillance Authority which impose a pecuniary obligation on persons other than States, shall be enforceable in accordance with Article 110 of the EEA Agreement.

#### Article 20

Individuals and economic operators shall be entitled to address and be addressed by the EFTA Surveillance Authority in any official language of the EFTA States and the European Communities as regards notifications, applications and complaints. This shall also cover all instances of a proceeding, whether it be opened on notification, application or complaint or ex officio by the EFTA Surveillance Authority.

#### Article 21

The EFTA Surveillance Authority shall annually publish a general report on its activities.

### PART III THE EFTA STATES' FULFILMENT OF THEIR OBLIGATIONS UNDER THE EEA AGREEMENT AND THE PRESENT AGREEMENT

#### Article 22

In order to ensure the proper application of the EEA Agreement, the EFTA Surveillance Authority shall monitor the application of the provisions of the EEA Agreement and of the present Agreement by the EFTA States.

### Article 23

The EFTA Surveillance Authority shall, in accordance with Articles 22 and 37 of this Agreement and Articles 65(1) and 109 of, and Annex XVI to, the EEA Agreement as well as subject to the provisions contained in Protocol 2 to the present Agreement, ensure that the provisions of the EEA Agreement concerning procurement are applied by the EFTA States.

### Article 24

The EFTA Surveillance Authority shall, in accordance with Articles 49, 61 to 64 and 109 of, and Protocols 14, 26, 27, and Annexes XIII, section I(iv), and XV to, the EEA Agreement, as well as subject to the provisions contained in Protocol 3 to the present Agreement, give effect to the provisions of the EEA Agreement concerning State aid as well as ensure that those provisions are applied by the EFTA States.

In application of Article 5(2)(b), the EFTA Surveillance Authority shall, in particular, upon the entry into force of this Agreement, adopt acts corresponding to those listed in Annex I.

### Article 25

The EFTA Surveillance Authority shall, in accordance with Articles 53 to 60 and 109 of, and Protocols 21 to 25 and Annex XIV to, the EEA Agreement, as well as subject to the provisions contained in Protocol 4 to the present Agreement, give effect to the provisions of the EEA Agreement relating to the implementation of the competition rules applicable to undertakings as well as ensure that those provisions are applied.

In application of Article 5(2)(b), the EFTA Surveillance Authority shall, in particular, upon the entry into force of this Agreement, adopt acts corresponding to those listed in Annex II.

### Article 26

Provisions governing the cooperation, exchange of information and consultation between the EFTA Surveillance Authority and the Commission of the European Communities concerning the application of the EEA Agreement are laid down in Article 109 as well as in Articles 58 and 62(2) of, and Protocols 1, 23, 24 and 27 to, the EEA Agreement.

## PART IV THE EFTA COURT Article 27

A court of justice of the EFTA States, hereinafter referred to as the EFTA Court, is hereby established. It shall function in accordance with the provisions of this Agreement and of the EEA Agreement.

### Article 28

The EFTA Court shall consist of three judges.

## Article 29

Decisions of the Court shall be valid only when all its members are sitting in the deliberations.

## Article 30

The Judges shall be chosen from persons whose independence is beyond doubt and who possess the qualifications required for appointment to the highest judicial offices in their respective countries or who are jurisconsults of recognized competence. They shall be appointed by common accord of the Governments of the EFTA States for a term of six years.

Retiring Judges shall be eligible for reappointment.

The Judges shall elect the President of the EFTA Court from among their number for a term of three years. He may be re-elected.

In case one of the Judges, in the opinion of the two other Judges, is disqualified from acting in a particular case, the two other Judges shall agree on a person to replace him chosen from a list established by common accord by the Governments of the EFTA States. If they cannot agree that person shall be chosen from the list by lot by the President. With regard to a Judge chosen in this way the rules applicable to regular Judges shall apply *mutatis mutandis*. In any case Article 4, second paragraph, and Article 13, of Protocol 5 shall not apply.

## Article 31

If the EFTA Surveillance Authority considers that an EFTA State has failed to fulfil an obligation under the EEA Agreement or of this Agreement, it shall, unless otherwise provided for in this Agreement, deliver a reasoned opinion on the matter after giving the State concerned the opportunity to submit its observations.

If the State concerned does not comply with the opinion within the period laid down by the EFTA Surveillance Authority, the latter may bring the matter before the EFTA Court.

## Article 32

The EFTA Court shall have jurisdiction in actions concerning the settlement of disputes between two or more EFTA States regarding the interpretation or application of the EEA Agreement, the Agreement on a Standing Committee of the EFTA States or the present Agreement.

## Article 33

The EFTA States concerned shall take the necessary measures to comply with the judgments of the EFTA Court.

## Article 34

The EFTA Court shall have jurisdiction to give advisory opinions on the interpretation of the EEA Agreement.

Where such a question is raised before any court or tribunal in an EFTA State, that court or tribunal may, if it considers it necessary to enable it to give judgment, request the EFTA Court to give such an opinion.

An EFTA State may in its internal legislation limit the right to request such an advisory opinion to courts and tribunals against whose decisions there is no judicial remedy under national law.

### Article 35

The EFTA Court shall have unlimited jurisdiction in regard to penalties imposed by the EFTA Surveillance Authority.

### Article 36

The EFTA Court shall have jurisdiction in actions brought by an EFTA State against a decision of the EFTA Surveillance Authority on grounds of lack of competence, infringement of an essential procedural requirement, or infringement of this Agreement, of the EEA Agreement or of any rule of law relating to their application, or misuse of powers.

Any natural or legal person may, under the same conditions, institute proceedings before the EFTA Court against a decision of the EFTA Surveillance Authority addressed to that person or against a decision addressed to another person, if it is of direct and individual concern to the former.

The proceedings provided for in this Article shall be instituted within two months of the publication of the measure, or of its notification to the plaintiff, or, in the absence thereof, of the day on which it came to the knowledge of the latter, as the case may be.

If the action is well founded the decision of the EFTA Surveillance Authority shall be declared void.

### Article 37

Should the EFTA Surveillance Authority, in infringement of this Agreement or the provisions of the EEA Agreement, fail to act, an EFTA State may bring an action before the EFTA Court to have the infringement established.

The action shall be admissible only if the EFTA Surveillance Authority has first been called upon to act. If, within two months of being so called upon, the EFTA Surveillance Authority has not defined its position, the action may be brought within a further period of two months.

Any natural or legal person may, under the conditions laid down in the preceding paragraphs, complain to the EFTA Court that the EFTA Surveillance Authority has failed to address to that person any decision.

### Article 38

If a decision of the EFTA Surveillance Authority has been declared void or if it has been established that the EFTA Surveillance Authority, in infringement of this Agreement or of the provisions of the EEA Agreement, has failed to act, the EFTA Surveillance Authority shall take the necessary measures to comply with the judgment.

This obligation shall not affect any obligation which may result from the application of Article 46, second paragraph.

### Article 39

Save as otherwise provided for in Protocol 7 to this Agreement, the EFTA Court shall have

jurisdiction in actions against the EFTA Surveillance Authority relating to compensation for damage provided for in Article 46, second paragraph.

#### Article 40

Actions brought before the EFTA Court shall not have suspensory effect. The EFTA Court may, however, if it considers that circumstances so require, order that application of the contested act be suspended.

#### Article 41

The EFTA Court may in any case before it prescribe any necessary interim measures.

### PART V GENERAL AND FINAL PROVISIONS

#### Article 42

The Protocols and Annexes to this Agreement shall form an integral part thereof.

#### Article 43

1. The Statute of the EFTA Court is laid down in Protocol 5 to this Agreement.
2. The EFTA Court shall adopt its rules of procedure to be approved by the Governments of the EFTA States by common accord.

#### Article 44

1. The legal capacity, privileges and immunities to be recognized and granted by the EFTA States in connection with the EFTA Surveillance Authority and the EFTA Court are laid down in Protocols 6 and 7 to this Agreement, respectively.
2. The EFTA Surveillance Authority and the EFTA Court, respectively, may conclude with the Government of the States in whose territory their seats are situated an agreement relating to the privileges and immunities to be recognized and granted in connection with it.

#### Article 45

The seat of the EFTA Surveillance Authority and the EFTA Court, respectively, shall be determined by common accord of the Governments of the EFTA States.

#### Article 46

The contractual liability of the EFTA Surveillance Authority shall be governed by the law applicable to the contract in question.

In the case of non-contractual liability, the EFTA Surveillance Authority shall, in accordance with the general principles of law, make good any damage caused by it, or by its servants, in the performance of its duties.

#### Article 47

The Governments of the EFTA States shall, on a proposal from the EFTA Surveillance Authority and after consulting a committee consisting of the members of Parliament of the EFTA States who are members of the EEA Joint Parliamentary Committee, each year before 1 January by common accord establish a budget for the coming year and the apportionment of those expenses between the EFTA States.

The EFTA Surveillance Authority shall be consulted before a decision modifying or amending its proposal for a budget is adopted.

#### Article 48

The Governments of the EFTA States shall, on a proposal from the EFTA Court, each year before 1 January by common accord establish a budget for the EFTA Court for the coming year and the apportionment of those expenses between them.

#### Article 49

The Governments of the EFTA States may, unless otherwise provided in this Agreement, on a proposal from or after hearing the EFTA Surveillance Authority, by common accord amend the main Agreement as well as Protocols 1 to 4 and 6 and 7. Such an amendment shall be submitted to the EFTA States for acceptance and shall enter into force provided it is approved by all EFTA States. Instruments of acceptance shall be deposited with the Government of Sweden which shall notify all other EFTA States.

#### Article 50

1. Any EFTA State which withdraws from the EEA Agreement shall ipso facto cease to be a Party to the present Agreement on the same day as that withdrawal takes effect.
2. Any EFTA State which accedes to the European Community shall ipso facto cease to be a Party to the present Agreement on the same day as that accession takes effect.
3. The Governments of the remaining EFTA States shall, by common accord, decide on the necessary amendments to be made to the present Agreement.

#### Article 51

Any EFTA State acceding to the EEA Agreement shall accede to the present Agreement on such terms and conditions as may be laid down by common accord by the EFTA States. The instrument of accession shall be deposited with the Government of Sweden which shall notify the other EFTA States.

#### Article 52

The EFTA States shall communicate to the EFTA Surveillance Authority the measures taken for the implementation of this Agreement.

#### Article 53

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

Before the entry into force of this Agreement, it shall also be drawn up and authenticated in

Finnish, French, German, Icelandic, Italian, Norwegian and Swedish.

2. This Agreement shall be deposited with the Government of Sweden which shall transmit a certified copy to each EFTA State.

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

3. This Agreement shall enter into force on the date and under the conditions provided for in the Protocol Adjusting the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice.

IN WITNESS WHEREOF the undersigned plenipotentiaries, being duly authorized thereto, have signed the present Agreement.

DONE at Oporto, this 2nd day of May 1992, in a single authentic copy in the English language which shall be deposited with the Government of Sweden. The Depositary shall transmit certified copies to all Signatory States and States acceding to this Agreement.

---

# ESA/Court Agreement Protocol 2

- [ESA/Court Agreement Main Part](#)
- [Protocol 3 on the functions and powers of the EFTA Surveillance Authority in the field of State aid](#)
- [Protocol 4 on the Functions and Powers of the EFTA Surveillance Authority in the Field of Competition](#)
- [Protocol 5 on the Statute of the EFTA Court](#)
- [Protocol 7 to the ESA-Court Agreement on the Legal Capacity, Privileges and Immunities of the EFTA Court](#)

## **Protocol 2 on the functions and powers of the EFTA Surveillance Authority in the field of procurement**

(extracts)

### **Article 1**

1. Without prejudice to Articles 31 and 32 of this Agreement, the EFTA Surveillance Authority may invoke the procedure for which the present Article provides when, prior to a contract being concluded, it considers that a clear and manifest infringement of the provisions of the EEA Agreement in the field of procurement has been committed during a contract award procedure falling within the scope of the acts referred to in points 2 and 3 of Annex XVI to the EEA Agreement.
2. The EFTA Surveillance Authority shall notify the EFTA State and the contracting authority concerned of the reasons which have led it to conclude that a clear and manifest infringement has been committed and request its correction.
3. Within 21 days of receipt of the notification referred to in paragraph 2, the EFTA State concerned shall communicate to the EFTA Surveillance Authority:
  - a. its confirmation that the infringement has been corrected; or
  - b. a reasoned submission as to why no correction has been made; or
  - c. a notice to the effect that the contract award procedure has been suspended either by the contracting authority on its own initiative or on the basis of the powers specified in Article 2(1)(a) of the act referred to in point 5 of Annex XVI to the EEA Agreement.
4. A reasoned submission in accordance with paragraph 3(b) of this Article may rely among other matters on the fact that the alleged infringement is already the subject of judicial or other review proceedings or of a review as referred to in Article 2(8) of the act referred to in point 5 of Annex XVI to the EEA Agreement. In such a case, the EFTA State shall inform the EFTA Surveillance Authority of the result of those proceedings as soon as it becomes known.
5. Where notice has been given that a contract award procedure has been suspended in accordance with paragraph 3(c) of this Article, the EFTA State shall notify the EFTA

Surveillance Authority when the suspension is lifted or another contract procedure relating in whole or in part to the same subject matter is begun. That notification shall confirm that the alleged infringement has been corrected or include a reasoned submission as to why no correction has been made.

---