

## 21994A0103(01)

### **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**

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

#### 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 Depositary, 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.

#### Article 128

1. Any European State becoming a member of the Community shall, or becoming a member of EFTA may, apply to become a Party to this Agreement. It shall address its application to the EEA Council.

2. The terms and conditions for such participation shall be the subject of an agreement between the Contracting Parties and the applicant State. That agreement shall be submitted for ratification or approval by all Contracting Parties in accordance with their own procedures.

#### Article 129

1. This Agreement is drawn up in a single original in the Danish, Dutch, English, Finnish, French, German, Greek, Icelandic, Italian, Norwegian, Portuguese, Spanish and Swedish languages, each of these texts being equally authentic.

The texts of the acts referred to in the Annexes are equally authentic in Danish, Dutch, English, French, German, Greek, Italian, Portuguese and Spanish as published in the Official Journal of the European Communities and shall for the authentication thereof be drawn up in the Finnish, Icelandic, Norwegian and Swedish languages.

2. This Agreement shall be ratified or approved by the Contracting Parties in accordance with their respective constitutional requirements.

It shall be deposited with the General Secretariat of the Council of the European Communities by which certified copies shall be transmitted to all other Contracting Parties.

The instruments of ratification or approval shall be deposited with the General Secretariat of the Council of the European Communities which shall notify all other Contracting Parties.

3. This Agreement shall enter into force on 1 January 1993, provided that all Contracting Parties have deposited their instruments of ratification or approval before that date. After that date this Agreement shall enter into force on the first day of the second month following the last notification. The final date for such a notification shall be 30 June 1993. After that date the Contracting Parties shall convene a diplomatic conference to appreciate the situation.



En fe de lo cual, los plenipotenciarios abajo firmantes suscriben el presente acuerdo.

Til bekræftelse heraf har undertegnede befuldmægtigede underskrevet denne aftale.

Zu Urkund dessen haben die unterzeichneten Bevollmächtigten ihre Unterschriften unter dieses Abkommen gesetzt.

Ἐν τῷ ὄνοματι τοῦ ἑνωμένου βασιλείου τῆς Ἑλλάδος, ἡ ὑπογραφή τῆς παρούσης συμφωνίας γίνεται ἀπὸ τῶν ἀνωτέρω ἐπισημασθέντων πληρεξουσιασῶν.

In witness whereof the undersigned Plenipotentiaries have signed this Agreement.

En foi de quoi, les plénipotentiaires soussignés ont apposé leurs signatures au bas du présent accord.

Íessu til sta sfestingar hafa undirrita sir fulltrúar, sem til less hafa fullt umbo s, undirrita s samning lennan.

In fede di che, i plenipotenziari sottoscritti hanno apposto le loro firme in calce al presente accordo.

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

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

Em fé do que, os plenipotenciários 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.

Ἐπιτελεσθέντα ἐν τῷ ὄνοματι τοῦ ἑνωμένου βασιλείου τῆς Ἑλλάδος, ἡ ὑπογραφή τῆς παρούσης συμφωνίας γίνεται ἀπὸ τῶν ἀνωτέρω ἐπισημασθέντων πληρεξουσιασῶν.

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 maímána sar ári s nítján hundru s níutíu og tvö.

Fatto a Porto, addì due maggio millenovecentonovantadue.

Gedaan te Oporto, de tweede mei negentienhonderd tweeënnegentig.

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 Comisión de las Comunidades Europeas

For Rådet og Kommissionen for De Europæiske Fællesskaber

Für den Rat und die Kommission der Europäischen Gemeinschaften

Ἐἰς τὸν Συμβούλιον καὶ τὴν Κομισσηὶν τῶν Ἐυρωπαϊκῶν Κοινοτήτων

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 Comissão 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>

Ἐἰς τὸν Βασιλεῖον τῆς Ἰσπανίας

>REFERENCE TO A FILM>

Por el Reino de España

>REFERENCE TO A FILM>

Pour la République française

>REFERENCE TO A FILM>

Thar cheann Na hÉireann

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 República 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 Lýðveldið 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>

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>
  - B. >TABLE>

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.

„ἄείῃ ὀοῖ Ἐϋνοῖ, ὀόεὸ ἄγῖ Ἰάῆῖο ÷βέεῃ ἄίῖεῃεῖῖεῃ ἄίῖῖῖεῃ ἄγῖ.

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 maímána sar ári s nítján hundru s níutíu og tvö.

Fatto a Porto, addì due maggio millenovecentonovantadue.

Gedaan te Oporto, de tweede mei negentienhonderd tweeënnegentig.

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 Comisión de las Comunidades Europeas

For Rådet og Kommissionen for De Europæiske Fællesskaber

Für den Rat und die Kommission der Europäischen Gemeinschaften

Ἐἰς τὴν Σύνοδον καὶ τὴν Ἐπιτροπὴν τῶν Ἐυρωπαϊκῶν Κοινοτήτων

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 Comissão 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>

Ἐἰς τὴν Ἐπιτροπὴν καὶ τὴν Σύνοδον

>REFERENCE TO A FILM>

Por el Reino de España

>REFERENCE TO A FILM>

Pour la République française

>REFERENCE TO A FILM>

Thar cheann Na hÉireann

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 República 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 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 <sup>(1)</sup>;

(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.

<sup>(1)</sup> 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

<sup>(1)</sup> 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.