



European Economic Area
Consultative Committee
Comité consultatif
de l'Espace Économique Européen
Beratender Ausschuss
des Europäischen Wirtschaftsraums

E U R O P E A N E C O N O M I C A R E A
C O N S U L T A T I V E C O M M I T T E E

Ref. 1113282
4 May 2012
Brussels

RESOLUTION AND REPORT

on the

EEA REVIEW

Rapporteurs:

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RESOLUTION

on the

EEA REVIEW

The Consultative Committee of the European Economic Area (EEA CC):

- A. Noting that it is 20 years since the EEA Agreement was signed on 2 May 1992 in Porto;
- B. Having regard to the Council Conclusions of 14 December 2010 on EU relations with EFTA countries¹;
- C. Noting that the European External Action Service (EEAS) is preparing a review of the EEA Agreement, as requested in the above Council Conclusions;
- D. Having regard to the EEA Review presented by a Norwegian Review Committee in January 2012;
- E. Noting that the Liechtenstein Government has mandated the Centre for European Policy Studies (CEPS) in Brussels to undertake a review of the EEA Agreement;
- F. Noting that on 4 May 2012 the EEA Joint Parliamentary Committee (JPC) adopted a resolution and report on the EEA Review;
 1. welcomes the different EEA reviews, finding them both necessary and timely. These reviews should stimulate constructive debate on the functioning of the EEA Agreement, lead to necessary adjustments of procedures and working methods and improve the knowledge of the EEA among stakeholders. The EEA CC wants with this resolution and report to feed into the different EEA reviews and their follow-up;
 2. underlines the importance of evaluating how the EEA Agreement functions for all parties concerned; the “users” of the Agreement and the Single Market – individuals and businesses, the “guardians” of the Agreement – governments, national administrations and the EFTA and EU institutions, and core stakeholders – social partners, parliamentarians, local and regional authorities and civil society;
 3. underlines that the social partners have an important role to play within the EEA, both at national and European level. They represent core stakeholders in the Single Market, and their contribution is vital both in shaping EEA-relevant legislation and policies and in raising the awareness of and implementing Single Market acquis. It is important that their role is recognised and that the social partners can contribute actively to the better functioning of the EEA Agreement;

¹ http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/118458.pdf

4. emphasises that the social partners play a unique role in the EU decision-making process through the EU Social Dialogue, where social partners from the EFTA countries also participate directly in negotiations on EU legislation as members of European umbrella organisations;
5. stresses the importance of regular and open social partner and civil society dialogue with national authorities and EU and EFTA institutions within the framework of the EEA Agreement, and encourages all parties to build on established practice and explore how this dialogue can be improved for the benefit of social partners, other civil society organisations and authorities at national and European level;
6. underlines the importance of the exchange of experience and best practices on social dialogue and tripartite cooperation between the EEA countries and new EU Member States. The Committee requests the EEA EFTA authorities to give priority to this important aspect of the European governance model when negotiating financial support to the new EU Member States within the EEA and Norway Grants, and to ensure that social partners and other civil society organisations at national level in the new beneficiary states are consulted and involved in the different processes for the implementation of the different programmes under the Grants;
7. calls on the relevant EEA EFTA authorities to establish the EEA relevance of new EU legislation at an early stage, to avoid unnecessary delays and to ensure that the homogeneity of the EEA is maintained. The EEA CC stresses the importance of consultation and involvement of social partners at national level as early as possible in this process to ensure the high quality, smooth and transparent transposition and implementation of EEA-relevant acquis;
8. reiterates that the EEA EFTA States should develop closer relations with the European Parliament (EP) and ensure that specific EEA EFTA concerns with regard to new EEA-relevant proposals are not only conveyed to the European Commission, on the basis of existing provisions in the EEA Agreement, but increasingly also to the Members of the European Parliament (MEPs);
9. emphasises the importance of strategies and measures to increase EEA/EU knowledge building at different levels in the EEA EFTA States, such as knowledge building in public institutions, both centrally and locally, better use of “Brussels competence” in EFTA countries, more learning about the EEA and EU in schools and universities, more emphasis on analysis and research on European issues and cooperation, closer Eurostat cooperation between EU and EFTA countries, and more and better information about the application of core rules within the EEA, for example public procurement rules, but also about EEA participation in EU programmes and activities in important areas such as research, education, social policy, environment, consumer protection, tourism and culture;

10. calls on the relevant authorities in the EEA EFTA States and the EFTA institutions to put a stronger emphasis on the promotion of the EEA Agreement at all levels in the 30 EEA States and within the EU institutions, through proactive participation in EU information and communication activities and the establishment of a more ambitious communication and information strategy, both at national level and the level of the EFTA Secretariat, including more regular EEA information seminars, targeted courses and training, and other networking/information events;
11. calls on the relevant authorities in the EEA EFTA States to take the necessary steps to improve the content and use of existing information tools (SOLVIT, Your Europe, etc) and to allocate sufficient resources and staff, making sure that potential users are well aware of the existence of these information, advice and problem-solving tools;
12. proposes launching a communication campaign to raise awareness and inform individuals and businesses in the EU Member States that the EEA numbers 30 countries and that the EEA EFTA States are equal partners in the Single Market, and calls on the EEA Council and relevant authorities to allocate the necessary budget and involve professionals in communication to prepare and run such a campaign, for instance on the occasion of the 20th anniversary of the entering into force of the EEA Agreement in 2014;
13. calls on the relevant EEA EFTA authorities to extend the national expert system to other institutions than the European Commission, especially the European Economic and Social Committee (EESC), the Committee of the Regions (CoR) and the EP. This would not only reinforce the cooperation between EEA stakeholders, but also contribute to improving EEA knowledge in these institutions and strengthening EU knowledge among EEA EFTA stakeholders;
14. calls on the relevant authorities at national, EFTA and EU level to evaluate EEA procedures and working methods on a regular basis and, if necessary, to simplify and readjust them to improve the efficiency and quality of output;
15. encourages the relevant authorities in the EEA EFTA States to work systematically on decision shaping and to involve the relevant stakeholders at an early stage, including the social partners and other civil society organisations, to identify potential problematic proposals as early as possible so that a constructive debate can be established, and to feed into the decision-making process on the EU side where there is a possible impact on the outcome for the EEA EFTA States;
16. calls on the EEA Council to reinforce its dialogue with the EEA CC, and asks for both EFTA and EU representatives of the EEA Council to attend the annual meeting of the EEA CC, as is the practice for the EEA JPC.

REPORT
on the
EEA REVIEW

I INTRODUCTION

1. 20 years of the EEA Agreement – time for review

1. 2012 marks the 20th anniversary of the signing of the EEA Agreement by six EFTA States and 12 EU Member States in Porto on 2 May 1992². The Agreement entered into force on 1 January 1994 and has served as the EEA EFTA States' bridge to the EU and the Single Market for 18 years. During this period, the mantra repeated by both sides has been that the Agreement is functioning well according to its original intentions. Since the signing of the Agreement, however, significant changes have taken place in the EU and the functioning of the EEA Agreement needs to be evaluated in light of these changes.

2. The EU Council has called for a review of the EEA Agreement in response to the reviews undertaken by Liechtenstein and Norway. According to the conclusions on relations with EFTA countries adopted by the Council on 14 December 2010³, the Council clearly envisages a comprehensive assessment, covering the technical, legal and political dimensions of not only the EEA Agreement as such, but the entire relationship between the EU and the three EEA EFTA States⁴. The EEA EFTA States have a large number of bilateral agreements with the EU, for instance the Schengen Agreement and agreements in the field of police and judicial cooperation⁵. The work on the EEA Review requested by the Council has been started by the EEAS and the European Commission. In parallel, the Council is preparing a new set of conclusions foreseen to be adopted by the end of the year.

² Austria, Sweden and Finland left EFTA and joined the EU on 1 January 1995; Switzerland voted against participating in the EEA Agreement; and Liechtenstein joined the Agreement in spring 1995.

³ "[t]he Council encourages ... a review of the functioning of the EEA Agreement, taking into account that EU-EEA EFTA relations have developed over the past 15 years in depth and in scope both within the framework of the EEA Agreement and beyond.

[I]t should be examined whether the EU interest is properly served by the existing framework of relations or alternatively by a more comprehensive approach, encompassing all fields of cooperation and ensuring a horizontal coherence.

The EU review should also take into account possible developments in the membership of the EEA.

With regard to the 'technical' functioning of the Agreement, the possibility of updating and simplifying some of the procedures ... should be explored, taking into account notably the massive technological development which now could be of benefit in the general functioning of the EEA Agreement."

⁴ EEA JPC working document on the review of the EEA from 2011 (ref. 1105425) and resolution adopted by the EEA JPC on 4 May 2012.

⁵ Norway has 74 bilateral agreements with the EU according to the Norwegian EEA Review: www.europautredningen.no

3. A Norwegian review of the EEA Agreement was presented to the Norwegian Government in January 2012, and the Government will follow up on this with a white paper to Parliament in the coming year. An EEA review has also been undertaken in Liechtenstein. The EEA CC welcomes the different EEA reviews, finding them both necessary and timely, not only because they mark the 20th anniversary, but also because the EEA Agreement was negotiated and entered into force a generation ago. The reviews should stimulate constructive debate on the functioning of the EEA Agreement, lead to the necessary adjustment of procedures and working methods and improve the knowledge of the EEA among stakeholders. The EEA CC would like to feed into the different EEA reviews and their follow-up through the present resolution and report.

4. 2012 also marks the 20th anniversary of the Single Market. The EU is stepping up its efforts to ensure the better functioning of the Single Market, which is important for economic growth, competitiveness and employment⁶, not least in the present financial crisis. The European Council stressed in its conclusions of March 2012 that it was important to strengthen the governance of the Single Market, including implementation and enforcement⁷. The review of the EEA Agreement should be seen in this wider context. The EEA States should look into how the EEA Agreement – and consequently the Single Market – could be made to work even better.

2. “The EEA Agreement functions well”, but how could it function better and what are the main challenges?

5. The EEA Agreement functions well, but for whom? Does it function well for the users – individuals and businesses – for whom the Single Market was made to enable them to work, shop, travel, invest or do business across borders? Does it function well for the “guardians” of the Agreement – governments, national administrations and the EFTA and EU institutions – which are responsible for incorporating new EU acquis into the Agreement and, in the case of EFTA, for influencing EU decisions of relevance to the EEA EFTA States? Does it function well for social partners, parliamentarians and local and regional authorities, which all have advisory roles? And how is civil society involved?

6. Through this present report, the EEA CC will discuss some of the main challenges it sees for the EEA Agreement and suggest how the Agreement could be made to work even better. The EEA CC will not go into discussing the renegotiation of the Agreement or alternative solutions, nor will it discuss the potential challenges that Iceland’s possible accession to the EU may pose to the EEA Agreement.

7. One of the main challenges for the functioning of the EEA Agreement is the asymmetry⁸ of the EFTA pillar and the EU pillar of the EEA Agreement. The EU includes 27 countries with a total population of around 500 million, while the three EEA

⁶ Further developed in the EEA CC Resolution on the Enterprise Dimension of the Internal Market adopted on 3 May 2012.

⁷ <http://register.consilium.europa.eu/pdf/en/12/st00/st000004-re01.en12.pdf>

⁸ The Agreement was initially signed by six EFTA States (Liechtenstein joined in 1995) and 12 EU Member States, while at present the Agreement covers three EFTA States and 27 EU States (28 as of 1 July 2013 when Croatia joins the EU).

EFTA countries count 5.35 million inhabitants. When the Agreement was negotiated, the relationship between the two pillars was more balanced, with six countries on the EFTA side to 12 EU Member States. Although the EEA Agreement has not been formally changed, this asymmetry has had a number of consequences on the functioning of the Agreement and the interests of and relations between the EU and EEA EFTA States.

8. Another major challenge for the functioning of the EEA Agreement are the Treaty changes on the EU side, since the Agreement was negotiated on the basis of the Single European Act of 1986. The EU side has undergone four successive Treaty reforms since then – the Maastricht, Amsterdam, Nice and Lisbon Treaties – (not counting the Treaty establishing the European Stability Mechanism which was signed by the euro area Member States in February 2012). The EFTA Consultative Committee (EFTA CC) adopted an opinion on the Treaty of Lisbon and the EEA in 2008⁹, and the EESC adopted an opinion on the Treaty of Lisbon and the Functioning of the Single Market in 2010¹⁰. The challenges identified in these opinions are still valid and some are reflected in this report, taking into account certain updates.

9. A third major challenge is the management of the EEA Agreement – how can we make the existing Agreement work better? Good knowledge about the EEA Agreement is crucial at all levels. Sufficient resources, capacity-building and continuity of staff in EU/EFTA and national institutions are vital for ensuring the successful functioning of the Agreement, not only when it comes to decision shaping and EEA EFTA influence on EU decisions, but also with regard to the quality of the outcome for all users of the Single Market – individuals and businesses – throughout the EEA. Awareness-raising and information about the opportunities that the EEA Agreement and the Single Market offer should be intensified so that more people and businesses in all 30 EEA States can benefit from the EEA. It might also be necessary to update and simplify some of the procedures, as mentioned in the Council Conclusions of 14 December 2010.

10. The EU side is looking at three aspects of EEA cooperation in its ongoing review: scope, membership and procedure. The point of departure is the key question of whether an unchanged EEA Agreement can still withstand the major developments that have taken place in the EU over the last 20 years. In terms of scope, the EU side is currently reviewing whether a new framework, including more policy areas, is needed. The membership issue concerns primarily the “micro-states”, while procedural discussions focus on issues such as dispute settlement, which has never been used, and delays in incorporating new *acquis* and the negative impact of these delays on the homogeneity of the EEA. If one conclusion can already be drawn it is that the EU side is generally satisfied with the EEA Agreement. After almost 20 years, however, some “restyling” is most likely needed.

⁹ <http://www.efta.int/~media/Documents/advisory-bodies/consultative-committee/cc-opinions/ccopinion12-03-08.pdf>

¹⁰ http://eescopinions.eesc.europa.eu/EESCOpinionDocument.aspx?identifier=ces\int\int520\ces965-2010_ac.doc&language=EN

3. The role of the social partners within the EEA

11. The social partners have an important role to play within the EEA, both at national and European level. They represent core stakeholders in the Single Market and their contribution is vital in shaping EEA-relevant legislation and policies and in raising the awareness of and implementing Single Market acquis. It is therefore important that their role is recognised and that the social partners can contribute actively to the better functioning of the EEA Agreement. The social partners also have a unique role to play in the EU decision-making process through the EU Social Dialogue, where social partners from the EFTA countries participate directly in negotiations on EU legislation as members of European umbrella organisations (the European Trade Union Confederation (ETUC), BusinessEurope, the European Centre of Employers and Enterprises providing Public services (CEEP) and the European Association of Craft, Small and Medium-sized Enterprises (UEAPME)). While the role of the social partners at EU level has been strengthened through successive Treaty revisions, the role of the social partners within the EEA Agreement has only been updated through the term of reference and rules of procedure of the EFTA CC and the EEA CC¹¹.

12. Within the EEA Agreement, the role of the social partners is mentioned in the text of the Agreement itself and in the Agreement on a Standing Committee of the EFTA States¹². The preamble of the Agreement states that the Contracting Parties are “desirous of contributing to the strengthening of the cooperation [...] between the social partners in the European Community and in the EFTA States”. Article 96 on cooperation between economic and social partners, establishing the EEA CC, states that EFTA and EU social partners shall cooperate “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”.

13. The EFTA CC has existed since the beginning of EFTA cooperation, but the Committee took on new responsibilities when the EEA Agreement entered into force¹³. Since then, however, there have been no formal changes to the EEA Agreement, while the role of the social partners at EU level has been strengthened through successive Treaty revisions. Under the Lisbon Treaty, the role of the European social partners has been further reinforced, in particular the Treaty’s recognition of the Tripartite Social Summit (Article 152 of the Treaty on the Functioning of the European Union), where the social partners meet annually with the Heads of State of the Trio Presidency and the Presidents of the European Council and the European Commission.

14. The Lisbon Treaty also reinforces the role of the EESC and increases the number of policy areas where consultation with the EESC is mandatory, to cover sport, the European Research Area (ERA) and energy policy¹⁴. The EESC was already

¹¹ <http://www.efta.int/advisory-bodies.aspx>

¹² <http://www.efta.int/legal-texts.aspx>

¹³ According to Article 9 of the Agreement on a Standing Committee of the EFTA States, the EFTA CC may express its views to the Standing Committee of the EFTA States on any matter of relevance to the functioning and development of the EEA. The Standing Committee may also seek the advice of the EFTA CC. The role and functioning of the EFTA CC is defined in more detail in its terms of reference, which have been modified four times since its establishment in 1961. Terms of reference: http://www.efta.int/~media/Documents/advisory-bodies/consultative-committee/CC_Terms_Ref.ashx

¹⁴ <http://www.eesc.europa.eu/?i=portal.en.institutional-reform>

consulted on measures, rules and regulations, and general action programmes in almost all EU policy areas, but the Lisbon Treaty strengthened its consultative role in relation to the EP by giving the latter the same prerogatives as the Commission and Council in terms of consulting the EESC. This has enhanced the EESC's "bridging" role between civil society and EU institutions in the policy-shaping and decision-making processes and opened up new prospects for its increased involvement at all stages of the EU legislative procedure, as well as upstream and downstream of the legislative process itself.

15. The EEA CC stresses the importance of a regular and open social partner and of civil society dialogue with national authorities and EU and EFTA institutions within the framework of the EEA Agreement. The Committee encourages all parties to build on established practice and explore how this dialogue can be improved for the benefit of social partners, other civil society organisations and authorities at national and European level.

16. Keeping in mind the strengthened dialogue with social partners at EU level, the EEA CC calls on the EEA Council to reinforce its dialogue with the Committee by sending a representative from the EU Presidency to the annual meeting of the EEA CC, as is the practice for the EEA JPC.

17. The EEA CC would like to reiterate its proposal to extend the national expert system to other institutions than the European Commission, especially the EESC, the CoR and the EP¹⁵. This would not only reinforce cooperation between EEA stakeholders, but would also contribute to improving EEA knowledge in these institutions and strengthening EU knowledge among EEA EFTA stakeholders. The EEA CC calls on the relevant EEA EFTA authorities to explore an extension of the national expert system and to allocate the necessary budget.

4. Enlargement of the EU and the EEA

18. In the Council Conclusions of December 2010, the Member States request that the EU's review of the EEA Agreement also take into account possible developments in the membership of the EEA. The EU side emphasises the importance of the multilateral aspect of EEA cooperation for its long-term credibility, regardless of the future outcome of the Icelandic EU accession negotiations.

19. The Conclusions highlight the relationship with all the EFTA States, including Switzerland. The Council states that the key challenge in EU-Swiss relations for the coming years will be to go beyond the present system of bilateral agreements, "which has become complex and unwieldy to manage and has clearly reached its limits. As a consequence, horizontal issues related to the dynamic adaptation of agreements to the evolving acquis, the homogeneous interpretation of the agreements, an independent surveillance and judicial enforcement mechanisms and a dispute settlement mechanism needs to be reflected in EU-Switzerland agreements."¹⁶

¹⁵ See point 29 in the following Resolution from 2010: <http://efta.int/~media/Documents/advisory-bodies/consultative-committee/cc-resolutions/English/2010-05-18-cc-resolution-europe-2020.pdf>

¹⁶ http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/118458.pdf

20. The European Commission and the EEAS have been asked to prepare a report with regard to European countries of small territorial dimension¹⁷ – so-called “micro-states” – and the plan is to adopt a Council recommendation on the issue. The “micro-states” have very different ambitions with regard to their relations with the EU, with Andorra so far being the most outspoken in its wish for deeper integration. While recognising that it would be difficult for the micro-states to join EFTA (first, this is an internal EFTA matter; second, as partners of a customs union with the EU this could be legally difficult), the EU is still favouring the EEA institutional framework as a link to these partners, including for Switzerland. The EEA CC will follow developments and foster dialogue with the relevant EU and EFTA institutions and authorities.

21. There are undoubtedly more countries knocking on the door of the EU than on that of the EFTA, but new EU Member States means new Contracting Parties to the EEA Agreement. Croatia will join the EU and the EEA on 1 July 2013, while Macedonia, Montenegro, Serbia and Turkey, in addition to Iceland, are candidate countries to the EU and the EEA. Bosnia and Herzegovina and Albania are potential candidate countries. The EEA CC will follow developments closely and establish contacts and dialogue with social partners in these countries in due time, partly through its observer status in EU joint consultative committees. The EEA CC underlines the importance of the exchange of experience and best practices on social dialogue and tripartite cooperation between the EEA countries and new EU Member States. The Committee requests that the EEA EFTA authorities give priority to this important aspect of the European governance model when negotiating financial support to the new EU Member States within the Financial Mechanism, and that they ensure that social partners and other civil society organisations in the beneficiary states are consulted and involved in the different processes for implementing the various programmes under the Mechanism¹⁸.

5. The Lisbon Treaty and challenges for the EEA

More difficult to establish EEA relevance

22. The entry into force of the Lisbon Treaty in December 2009 implied structural changes to the EU that included the abolition of the pillar structure and the addition of new competences at EU level¹⁹. The use of overarching and horizontal policy-making tools makes it more difficult to assess the EEA relevance of proposed measures, raising uncertainty and increasing the potential for political judgments and differences regarding the incorporation of new proposals into the EEA Agreement. The EEA CC calls on the relevant authorities of the EEA EFTA States to work even more closely with the EEAS and the European Commission to establish EEA relevance at an early stage, to avoid unnecessary delays and to ensure that the homogeneity of the EEA is maintained. The Committee stresses the importance of consultation and the involvement of social partners at national level as early as possible in this process to ensure the high

¹⁷ In particular Andorra, Monaco and San Marino

¹⁸ The Norwegian Grants provide a Fund for Decent Work and Tripartite Dialogue for the period 2009-2014: <http://www.eeagrants.org/id/1967.0>

¹⁹ EFTA CC Opinion on the Treaty of Lisbon and the EEA (March 2008, ref. 1081125)

quality, smooth and transparent transposition and implementation of EEA-relevant acquis.

A more powerful European Parliament, but increased democratic deficit for the EEA

23. The most important change brought about by the Lisbon Treaty is undoubtedly the further strengthening of the EP. Co-decision has been extended to approximately 40 different areas, including trade, agriculture, fisheries, criminal matters and the EU Budget, and now applies to legislative measures in virtually all policy areas. The Treaty has also strengthened the role of national parliaments, which is especially challenging for the EEA EFTA States as the EEA Agreement does not provide them with any formal link to the EP to influence legislation. While the EU has reduced its democratic deficit with the strengthening of the EP, this has paradoxically increased the “double democratic deficit” on the EFTA side. The EEA EFTA States should develop closer relations with the EP and ensure that specific EEA EFTA concerns with regard to new EEA-relevant proposals are not only conveyed to the European Commission, on the basis of existing provisions in the EEA Agreement, but increasingly also to MEPs²⁰.

6. Management of the EEA Agreement – how can it work better?

24. The EEA CC is of the opinion that much can be done at all levels to make the EEA Agreement work better. Most of the challenges are well-known among EEA actors, and improvements could be made within the framework of the existing Agreement. Solid knowledge about the EEA and the EU is vital, and more resources and higher priority should be given to capacity-building and continuity of staff in national administrations and in EU and EFTA institutions, to build up knowledge and to maintain the institutional memory. A review of procedures and working methods should also be looked into, with the objective of making them more efficient and resulting in a better output for the users of the EEA Agreement. Awareness-raising and capacity-building is not only an issue for the EEA EFTA States, but also for the EU Members States where knowledge about the EEA EFTA States’ participation in the Single Market is low.

EEA knowledge, priority and capacity-building at all levels

25. Good knowledge about the EEA and the EU is crucial for those working in EEA affairs, in national administrations as well as in EEA EFTA and EU institutions. The EEA and EU are technical and complex systems and processes, and it requires time and resources to build up the necessary administrative capacity to ensure the efficient and proactive functioning of the EEA Agreement.

26. Institutional memory is a key factor. The training and continuity of staff in EEA-relevant positions is important for maintaining a high level of knowledge and ensuring the smooth and correct processing of EU legislation and measures into the EEA Agreement, and subsequently their high quality implementation at national, regional and local level. Approximately 380 legal decisions have been implemented each year in the EEA EFTA countries since the entry into force of the EEA Agreement in 1994. On

²⁰ EEA JPC working document on the review of the EEA (April 2011, ref. 1105425)

some occasions implementation has been delayed due to limited capacity and lack of priority. This can have negative implications for businesses that depend on homogenous regulations in order to compete and function in the Single Market. While direct effect²¹ is a legal principle applicable on the EU side, the main rule within the EEA is that EU legislation only takes effect when implemented by the relevant EEA EFTA States. It is therefore even more important that the EEA EFTA States give priority to implementing directives and regulations as soon as possible, to maintain the same rights for EEA EFTA users of the Single Market – individuals and businesses.

27. The EEA CC emphasises the importance of strategies and measures to increase EEA/EU knowledge throughout the EEA, such as knowledge building in public institutions, better use of “Brussels competence” in EFTA countries, more learning about the EU and EEA in schools and universities, more emphasis on analysis and research on European issues and cooperation, closer Eurostat cooperation between EU and EFTA countries, and more and better information about the application of core rules within the EEA, for example public procurement rules, but also about the EEA participation in EU programmes and activities in important areas such as research, education, social policy, environment, consumer protection, tourism and culture.

28. The need for better knowledge about the EEA Agreement is also a core challenge within the EU institutions, at governmental level and among stakeholders in all EU Member States. This has been a challenge since the beginning, but the successive enlargements of the EU have made this challenge even more dominant. When Austria, Finland and Sweden joined the EU, officials and stakeholders from these countries brought their EEA knowledge with them into the EU system, while the Central and Eastern European countries became parties to the EEA Agreement without any prior EEA experience.

29. It is a never-ending task for the EEA EFTA States to promote the EEA Agreement to stakeholders, not least within the European institutions, so that the EEA EFTA States are not forgotten when EU proposals, decisions, reports and information documents are prepared and processed. The EEA CC calls on the relevant authorities in the EEA EFTA States and the EFTA institutions to put even more emphasis on the promotion of the EEA Agreement through proactive participation in EU information and communication activities, and by establishing a more ambitious communication and information strategy both at national level and the level of the EFTA Secretariat. This should include more regular EEA information seminars, targeted courses and training and other networking/information events.

30. Better knowledge about the EEA Agreement – and the EU – is also a core challenge for all stakeholders and users of the Single Market, not only in the EEA EFTA States but also the EU Member States. The Norwegian Review points to the lack

²¹ “Direct effect” is the principle of EU law, according to which provisions of EU law may, if appropriately framed, confer rights and impose obligations on individuals, which the courts of EU Member States are bound to recognise and enforce. Not explicitly stated in any of the EU treaties, the principle of direct effect was first established in relation to provisions of those treaties by the European Court of Justice (ECJ) in *Van Gend en Loos v Nederlandse Administratie der Belastingen*. Direct effect has subsequently been loosened in its application to treaty articles and the ECJ has expanded the principle, holding that it is capable of applying to virtually all of the possible forms of EU legislation, the most important of which are regulations and, in certain circumstances, to directives. (Source: Wikipedia).

of knowledge about the EEA Agreement among EU operators as one of the explanations as to why the effects of the Single Market on trade, foreign direct investment and prices have been less positive in Norway than in the EU²². The European Commission has established a number of information tools which also include the EEA EFTA States. One example is the Your Europe website (europe.eu/youreurope) which provides practical information and advice to individuals and businesses wanting to exercise their EU rights. The website includes national websites for each of the EEA EFTA States, in their respective languages. According to a recent report by the European Commission²³ a lot of national information is still missing from the Your Europe website, in particular on the national websites of the EEA EFTA States. This is both a problem for EEA EFTA nationals and EU nationals wanting to use their rights within the EEA. Out-of-court problem-solving mechanisms such as SOLVIT are also very important, and SOLVIT Centres need to have the necessary resources and visibility to effectively assist citizens and businesses with their problems. Easily accessible information about EEA-related legislation and processes is important for all parties involved. It is a paradox that one of the best sources of information on the EEA – Europalov²⁴ (only in Norwegian) – is a private initiative.

31. The EEA CC calls on the relevant authorities in the EEA EFTA States to take the necessary steps to improve the content and use of existing information tools, to allocate sufficient resources and staff, and to make sure that potential users are well aware of the existence of these information, advice and problem-solving tools. It is also important to make the information user-friendly and accessible in a “non-institutional” language and format to better “sell” the EEA to the users of the Single Market. The EEA CC proposes launching a communication campaign to inform individuals and businesses in the EU Member States that the Single Market also includes the EEA EFTA States, and calls on the EEA Council and the relevant authorities to allocate the necessary budget and involve professionals in communication to prepare and run such a campaign. This could be a good investment and efficient way of marking the 20th anniversary of the entering into force of the EEA Agreement in 2014. The celebration of the Single Market week in October 2012 could also be used to raise the awareness of the three EEA EFTA states' full participation in the Single Market"

Review of procedures and working methods

32. The review of EEA procedures and working methods at national and EFTA/EU level could improve the functioning of the EEA Agreement. The Council Conclusions of 2010 opened up the possibility of updating and simplifying some procedures with regard to the “technical” functioning of the Agreement, taking into account notably the massive technological developments that have taken place which could benefit the general functioning of the EEA Agreement. From an EEA EFTA perspective, such technical updating should not mean reduced participation by EEA EFTA stakeholders in the face-to-face decision-making process, nor should formal meetings be replaced by written procedure by email.

²² Norwegian Review, page 809.

²³ Internal Market and Services Directorate-General: Making the Single Market deliver – Annual governance check-up 2011, February 2012.

²⁴ www.europalov.no

33. The EEA EFTA Consultative Committee calls on the relevant national, EFTA and EU authorities to evaluate procedures and working methods on a regular basis, and if necessary, to simplify and readjust them to improve the efficiency and quality of output. In this regard, it is important to ensure that any “restyling” of the Agreement respects the basic principles of the Agreement and the balance between the EU and EFTA pillars. Close cooperation between the EEA EFTA States, the EEAS and the European Commission on this matter is therefore crucial.

Decision shaping: real influence on EU decision making or just an empty word?

34. Decision shaping is a keyword in EEA work, demanding solid EEA/EU knowledge and major resources in order to influence EU decisions in a timely and constructive manner. In addition, decision shaping has become a more demanding task as the EU has grown in size and has consequently had less capacity to involve non-Member States. It has also become more important to influence the EP given its strengthened powers in the EU decision-making process, but also more challenging since the EEA EFTA States do not have any formal link to it. Despite this, there is potential for better use of both formal and informal channels to influence EEA-related proposals on the EU side. However, there is a need to be realistic and focus resources and ambitions on some priority proposals of major importance. The EEA CC encourages the relevant authorities in the EEA EFTA States to work systematically on decision shaping and to involve the relevant stakeholders at an early stage, including the social partners and other civil society organisations, in order to identify potential problematic proposals as early as possible so that a constructive debate can feed into the decision-making process on the EU side, with a possible impact on the outcome for the EEA EFTA States.

35. Early involvement and consultation of relevant stakeholders is also important for decision shaping and decision making at national level, so that the debate on “problematic” directives comes much earlier and does not delay the EEA process and national implementation. Ideally, national debates in the EEA EFTA States should take place in parallel to national debates in the EU Member States, allowing room to possibly influence the final EU decision as well. Examples of cases where the relevant authorities have had real influence on EU decisions could be used as best practice cases for targeted training on decision shaping for relevant national administrations. There are many examples of cases where the EEA EFTA States have reacted too late to new EU proposals, and national debate had been raised after the decision has been taken on the EU side. By this time it is too late to influence the real content of EU law, and the result is a veto debate.