

EUROPEAN ECONOMIC AREA

STANDING COMMITTEE OF THE EFTA STATES

Ref. 25-1126

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SUBCOMMITTEE I ON THE FREE MOVEMENT OF GOODS

EEA EFTA Comment

on the European preference requirement in public procurement

1. EXECUTIVE SUMMARY

- *The EEA EFTA States (Iceland, Liechtenstein and Norway) recognise more than 30 years of deeply integrated cooperation with the European Union through the Agreement on the European Economic Area (EEA Agreement).*
- *The EEA Agreement brings together the 30 EEA States in one Internal Market that guarantees equal rights and obligations and a level playing field for individuals and economic operators within the EEA. The EEA Agreement covers the four freedoms of the Internal Market – goods, services, capital and persons – with equal rules on public procurement, competition and State aid.*
- *Where a European preference requirement is introduced in public procurement legislation, it should be clarified that this requirement includes all 30 EEA States. Public procurement is key to the well-functioning of the Internal Market, and the same rules and regulations must apply across the entire EEA.*

2. GENERAL REMARKS

1. The Agreement on the European Economic Area (EEA Agreement) extends the Internal Market of the European Union to the EEA EFTA States (Iceland, Liechtenstein and Norway) and provides their undertakings and individuals with the same rights and obligations as their counterparts in the EU. The EEA Agreement provides for harmonised rules and a homogenous market with equal conditions of competition.
2. The Internal Market has been a key driver for European competitiveness and progress for more than 30 years. The EEA EFTA States remain committed to prioritising this long-term partnership for the benefit of EEA citizens and undertakings.
3. Public procurement is a key pillar for the well-functioning of the Internal Market. Through the EEA Agreement, the EEA EFTA States have implemented EU legislation on public procurement. Therefore, the same rules and regulations apply throughout the EEA.
4. In recent years, public procurement legislation in the EEA has seen increased alignment with the EU's strategic objectives. As part of the ongoing revision of the public procurement directives, the European Commission has communicated that the revised legislation should include a requirement for EU preference in procurement in certain strategic sectors and technologies.
5. Where “European preference criteria”, “EU content requirements” or “Buy European”¹ are introduced in public procurement legislation, it should be clarified that these terms encompass all 30 EEA States. Such clarification is essential to avoid unintended distortion of competition in favour of certain economic operators within the Internal Market.
6. Clear and precise legislation removes uncertainty for contracting authorities, and helps improve efficiency. It also decreases the number of unnecessary disputes in public procurement. Therefore, the EEA EFTA States call on the European Commission to provide unequivocal clarification on the status of the EEA EFTA States in the revised legislation. An example of where such clarification has been provided is the Internal Market Emergency and Resilience Act (IMERA).² In Article 39 (2) of IMERA it is stated that *“Participation in the joint procurement procedure shall be open to all Member States, EFTA States ... For the purposes of this Article and Article 41, those countries shall be considered participating Member States where they decide to participate in the joint procurement”*.
7. Without prejudice to how the final revised public procurement legislation will be structured, it should nevertheless be clarified that EU preference criteria / EU content requirements / Buy European should include the EEA EFTA States.

¹ Reference is made to the Political Guidelines for the next European Commission 2024-2029, the Mission Letter to Executive Vice-President Stéphane Sejourne, A Competitiveness Compass for the EU COM(2025) 30 final and the Clean Industrial Deal: A joint roadmap for competitiveness and decarbonisation COM(2025) 85 final.

² Regulation (EU) 2024/2747 of the European Parliament and of the Council of 9 October 2024 establishing a framework of measures related to an internal market emergency and to the resilience of the internal market and amending Council Regulation (EC) No 2679/98 (Internal Market Emergency and Resilience Act)

8. The EEA EFTA States appreciate the European Commission's continued commitment to a close dialogue on the ongoing legislative process.