

EEE 1609/15

**DRAFT MINUTES**

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Subject: Draft minutes of the 44th meeting of the EEA Council  
(Brussels, 17 November 2015)

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**of the 44th meeting of the**

**EEA COUNCIL**

**(Brussels, 17 November 2015)**

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The EEA Council held its 44<sup>th</sup> meeting in Brussels on 17 November 2015.

The meeting was chaired by Mr *Vidar HELGESEN*, Minister of EEA and EU Affairs at the Office of the Prime Minister of Norway, who led the EEA EFTA delegation, accompanied by Ms *Aurelia FRICK*, Minister of Foreign Affairs of Liechtenstein, and Ms *Bergdís ELLERTSDOTTIR*, Ambassador and Head of the Mission of Iceland to the EU.

The EEA EFTA delegation also included Mr *Kristinn F. ÁRNASON* (Secretary General of the European Free Trade Association (EFTA)) and Mr *Sven Erik SVEDMAN* (President of the EFTA Surveillance Authority (ESA)).

The EU delegation was led by Mr *Nicolas Schmit*, Minister of Labour, Employment and the Social and Solidarity Economy of Luxembourg, representing the Presidency of the Council of the European Union, accompanied by representatives of the General Secretariat of the Council, the European Commission and the European External Action Service (EEAS).

### **Opening remarks of Minister HELGESEN on behalf of the EEA EFTA States**

Co-chair, dear colleagues,

I welcome you to the 44th meeting of the EEA Council. I propose that we deal with items 1, 2, 3 and 4 of the agenda without prior discussion.

#### **1. ADOPTION OF THE AGENDA**

The EEA Council adopted the Agenda, as set out in doc. EEE 1606/15.

#### **2. APPROVAL OF THE MINUTES**

The EEA Council approved the minutes of the 43<sup>rd</sup> meeting of the EEA Council, which took place in Brussels on 13 May 2014, as set out in doc. EEE 1604/15.

#### **3. PROGRESS REPORT BY THE EEA JOINT COMMITTEE**

The EEA Council took note of the Progress Report by the EEA Joint Committee, as set out in doc. EEE 1608/15.

#### **4. RESOLUTIONS ADOPTED BY THE EEA CONSULTATIVE COMMITTEE**

The EEA Council took note of the Resolutions of the EEA Consultative Committee adopted at its 23rd meeting in Zagreb on 5 June 2015 on *Investing in quality jobs for sustainable development* and on *The Impact of the Transatlantic Trade and Investment Partnership on the EEA Agreement*

#### **5. ASSESSMENT OF THE OVERALL FUNCTIONING OF THE EEA AGREEMENT**

##### **Intervention of Minister HELGESEN on behalf of the EEA EFTA States**

Dear colleagues,

First of all, I would like to reiterate my sincere condolences to the people of France and my deepest sympathy to the bereaved families and others affected by the tragic events in Paris this weekend. We have witnessed the worst act of violence in France since the Second World War. Yet again we are reminded of the importance of safeguarding our common values of democracy, human rights and rule of law. These values cannot, and must not, be compromised. We must work together to combat those who seek to undermine them, and commit ourselves to promote those same values every day. In this task all of Europe stand united.

The current migration and refugee crisis is the most difficult and comprehensive challenge that Europe has faced for many years. The EEA EFTA States are also associated members of the Schengen and Dublin cooperation. We take part in ongoing discussions in the EU on how to meet these challenges, and contribute to joint efforts. We will get back to this issue under the Political Dialogue.

The migration and refugee crisis does also underscore the necessity of strengthening the European economy. The internal market plays a key role in promoting growth and jobs in Europe. This was expressed most recently in the Commission internal market strategy, which we will discuss later in our meeting, as well as in the Commission Working Programme for 2016. A forward-looking internal market, with a strong digital agenda, well-functioning energy and labour markets, and enhanced focus on better regulation and cutting “red-tape”, is essential for European competitiveness in the years ahead. The EEA EFTA States are definitely committed to contribute in these efforts.

The EEA Agreement has been the main basis of the relationship between the EU and the EEA EFTA States for more than twenty years. It needs continuous political priority.

The EEA Agreement also contributes to the aim of reducing social and economic disparities in Europe. Through the EEA and Norway Grants, the EEA EFTA States have made substantial efforts towards achieving this objective.

The EEA EFTA States are pleased with the agreement reached this summer in the negotiations on the continuation of the financial mechanisms for the 2014 to 2021 period. While the preparations for the new programming period have been ongoing for some time, it is now important to finalise the necessary procedures, to allow for the seamless implementation of the new mechanisms without further delay.

A key priority in recent years has been to find a way to ensure the continued participation of the EEA EFTA States in the Single Market for financial services. To this end, in October last year, EU and EEA EFTA Ministers of Finance reached an agreement on the principles for incorporating the EU regulations establishing the European Supervisory Authorities in the field of financial services.

Since then, considerable time and human resources, both in the Commission and on the EEA EFTA side, have been devoted to preparing the legal texts for incorporation into the EEA Agreement. But despite these extraordinary efforts, this challenging process has unfortunately taken longer than anticipated.

The financial sector and business community have long been waiting to see this legislation implemented across the EEA, and the negative effects of the legal situation not being uniform are already being felt. While in many financial services areas the EEA/EFTA States have adopted national legislation which materially corresponds to EU legislation, the EEA EFTA States would like to point out that a fully level playing field throughout the EEA in this important sector will only be ensured through incorporation and implementation of all relevant financial services acquis also in the EEA EFTA States.

We are close to reaching an agreement on a first package of legal acts, while the preparatory work on other legislation related to the Supervisory Authorities is well underway. We urge all parties to ensure that this first package is processed as soon as the work is finalised, to allow for as swift incorporation into the EEA Agreement as swiftly as possible.

Another key priority is to reduce the number of outstanding legal acts. As we have informed previous EEA Councils, the EEA EFTA States have allocated considerable time and resources to reduce the backlog. This is essential to ensure legal homogeneity and predictability for economic operators and citizens in the EEA.

A number of new measures have been introduced on the EEA EFTA side. Revised procedures for the processing of EU legal acts entered into force in October last year. National measures are being implemented in each of the EEA EFTA States. As a result of these efforts, we have seen a significant increase in the number of legal acts being incorporated each year. The number of Joint Committee Decisions being adopted annually is higher than ever before. We also see that new EU acts are being processed more quickly than in the past.

Since our last meeting in May, we have also seen progress being made on a number of challenging issues which have been on our agenda for a long time, including the Novel Foods Package.

Despite these positive developments, the number of outstanding legal acts remains too high and both the EEA EFTA and the EU side need to continue their efforts aimed at reducing the backlog.

An important factor to consider is the fact that a growing share of the backlog consists of legal acts that require particular adaptations in order to be properly incorporated into the EEA Agreement. This is necessary in order to ensure that EEA EFTA participation is in line with both the Agreement and the national constitutions.

A case in point is the numerous legal acts related to the European Financial Supervisory Authorities. These currently account for close to one-third of the total number of outstanding legal acts.

The Third Energy Package/ACER and the Telekom package/BEREC are other important examples.

When the EEA Agreement entered into force, there were hardly any EU agencies or supervisory authorities. Today, EU agencies and supervisory authorities constitute a core element in the internal market. To ensure a well-functioning EEA cooperation, the EEA EFTA states must take part in these agencies and supervisory authorities. Otherwise, there will be a risk of fragmentation. It is a shared responsibility to contribute to solutions that make such participation possible.

I trust that we together will find good and relevant solutions for cooperation in the work of agencies, including in the field of energy (ACER) and telecommunications (BEREC), in the near future.

A further reduction in the number of outstanding acts requires a pragmatic, realistic and solution-oriented approach on both sides, which takes into account the specific nature of the Agreement. We are confident that the sum of our efforts will contribute to reducing the number of legal acts awaiting incorporation into the EEA Agreement in the medium and long term.

Dear colleagues,

Climate change policy has become an increasingly important part of our cooperation in recent years. The EEA EFTA States consider that the 2030 Framework for Climate and Energy Policies provides new opportunities to further expand our cooperation in these areas in the times ahead.

We fully support and will contribute to the efforts to reform the Emissions Trading System. A well-functioning and reformed ETS will be the main European instrument to achieve the climate target.

Norway and Iceland have earlier this year announced their intentions to fulfil their climate commitments jointly with the EU. This means cooperation with the EU also for emission reductions in the non ETS-sectors. We appreciate the September EU Environment Council decision to welcome these intentions.



Joint fulfilment allows for a more efficient climate policy and will further strengthen our cooperation towards an ambitious and legally binding agreement during the COP21 conference in Paris next month.

The conclusion of the negotiations of a Trans-Pacific Partnership (TPP) between the US and eleven countries in the Pacific region has given new impetus to the Transatlantic Trade and Investment Partnership process. The EEA EFTA States welcome the progress made during the last round of negotiations between the EU and the United States on the TTIP. A successful outcome of the negotiations would lead to growth and jobs in both the EU and the US, and is also likely to benefit the EEA. If a TTIP agreement leads to enhanced regulatory cooperation between the EU and the US, the rules and regulations of the EU's Internal Market, and thus of the EEA, might also be affected.

We appreciate the active approach taken by the Commission, and confirmed in the new trade policy strategy 'Trade for all' to share more information at all stages during the negotiation process, including publication of the final text.

Furthermore, we appreciate that in the new 'Trade for all' strategy Commissioner Malmström underlines that 'no trade agreement will ever lower levels of regulatory protection; that any change to levels of protection can only be upward; and that the right to regulate will always be protected.' These are goals fully shared by the EEA EFTA State.

The EEA EFTA States welcome the regular exchange of information with the European Commission, which was launched towards the end of last year. As the negotiations progress further, we look forward to continuing this dialogue, both in the Joint Committee and at technical level.

In conclusion, I am confident that together we will be able to address the outstanding issues mentioned here today. We have been consistently successful in finding mutually acceptable solutions over the last twenty years, and the EEA EFTA States are confident that this will remain the case in the future.

I would like to thank the outgoing EU Chair, the Luxembourg Presidency, for its positive and constructive cooperation during its term. We appreciate in particular the way in which you have facilitated our participation in informal EU Council meetings and in political dialogues, as well as in the preparation of this meeting. We look forward to working with the Netherlands during its Presidency of the EU Council in the first half of next year.

### **Intervention of Minister SCHMIT on behalf of the EUROPEAN UNION**

Dear Colleagues from Iceland, Norway and Liechtenstein, as well as from the EFTA Secretariat and the EFTA Surveillance Authority,

I am glad to participate in this meeting, and I would like to warmly welcome you and your delegations on behalf of my European colleagues.

I would also like to thank you and the EFTA Secretariat for the excellent co-operation in finalising the arrangements for this meeting.

Let me join you in expressing full sympathy and solidarity with the French people and with the families of the victims. This was an attack against our values. We need to show strength and solidarity to combat terrorism.

Mr Chairman, dear colleagues,

First of all I would like to take this opportunity to stress the importance we attach to these EEA Council meetings, which enable us to periodically assess the application of the EEA Agreement and to conduct a useful exchange of views on its different facets.

On the whole, we feel that internal cooperation between EU Member States and EEA EFTA States has continued to improve and we are pleased to see that the institutions created under the Agreement are functioning well. Nevertheless, we are ready to step up our cooperation even further in the future – and you cited a number of areas where closer cooperation would be useful or even necessary.

In the past few months further work has been done in several areas which has strengthened our relations or may do so in the future. For now I would like to mention just a few of those areas:

In July we signed a protocol and an agreement with the EEA EFTA States on financial mechanisms. Norway, Iceland and Liechtenstein have in the past expressed their solidarity with the European Union by making a significant contribution to economic and social cohesion in the EU. We welcome their readiness to continue this tradition by once again making substantial sums available to beneficiary countries. We are glad that we were recently able to resolve the final outstanding substantive point. We hope that it will now be possible for work to progress swiftly to allow mechanisms to be set up as soon as possible.

We also welcome the recent finalisation of the negotiations with Iceland on three agreements in the area of agriculture, concerning the further liberalisation of agricultural trade and the protection of geographical indications. This is an important signal that the rapprochement between the European Union and Iceland is continuing in that area. We hope to be able to sign those agreements in the first few months of 2016.

I would also like to express our appreciation for the good cooperation with our EEA EFTA partners, both in the face of the current refugee crisis – which we will talk about over lunch – and in preparation for the 21st Conference of the Parties to the United Nations Framework Convention on Climate Change – which you also addressed. This clearly shows the extent to which our relations have broadened and deepened beyond the EEA Agreement. We attach a great deal of importance to that cooperation continuing!

I also feel obliged to point out, as you have also mentioned, that there are still a large number of EU acts awaiting incorporation into the EEA Agreement. Efforts to reduce that number must be pursued and stepped up if necessary. This also applies to Joint Committee Decisions for which the six-month deadline provided for in the EEA Agreement with regard to constitutional clearance has been exceeded. We are aware that the *acquis* related to EU supervisory authorities in the financial sector accounts for a large proportion of the delayed acts, and we ask EEA EFTA States and the European Commission to finalise preparatory work for the incorporation of those acts as soon as possible.

Finally I must again mention the issue of the management of the mackerel stock, which still needs to be resolved. However, we will return to that issue under item 7 of our meeting in the context of adopting the conclusions.

I will now give the floor to the EEAS to talk about the EU's position on the day-to-day functioning of the EEA Agreement.

**Intervention of Managing Director MAYR HARTING on behalf of the EEAS/Commission**

Mr. Chairman, Honourable Delegations,

It is an honour for me to join today's meeting and share with you, on behalf of the External Action Service and the European Commission, our view on the functioning of the Agreement since the last Council meeting on 18 May 2015.

Let me firstly underline that the European Economic Area Agreement was initiated more than 20 years ago and since then it has been providing us with a solid basis for our cooperation, although the legal and political environment has been changing.

It was an agreement deriving from an outstanding level of political trust. Trust is an exceptional valuable and time intensive asset. And our Agreement cannot function without it. Let us make sure that trust continues to inspire us in finding good solutions to all the outstanding issues as well as in ensuring a successful implementation of this Agreement in the coming years, in order to unfold all its economic, political and strategic potential.

The EEA Agreement has made an important contribution to EEA countries' economies and societies, it has shaped the regulatory framework and set up a level playing field between the EU Member States and the EEA EFTA Countries, it has established the same rules book for our private sector and has played a major role in the modernisation of our economies, boosting employment and improving working conditions.

During these last 20 years, the EEA Agreement has grown up, it is a lively agreement as about 8000 new EU legal acts have been incorporated in its annexes.

The Single Market is one of EU's and EEA's greatest achievements, it allows people, services, goods, capital to move freely among our countries, without borders. It offers enormous opportunities for businesses, greater choice and lower prices for consumers. It enables our citizens to travel, live, study where they wish.

It is our task to explain the benefits and values of what we have achieved, to preserve this unique growing foundation of our business and society model.

Recently the European Commission has decided to give the Single Market a new boost with a number of pragmatic actions on three main areas:

1. creating additional opportunities for consumers, professionals and businesses;
2. encouraging the modernisation and innovation that Europe needs;
3. ensuring practical benefits for people in their daily lives.

It will be our mission, in the coming months to make sure that this deeper and fairer Single Market is translated into the EEA Agreement, in the most efficient way, without undue delays to ensure the best homogeneity of the EEA market possible, while respecting your respective constitutional requirements.

In our last meetings we have concluded that both the EU and the EEA EFTA side need to be responsible, ambitious and work hard so that we make a real and sustainable progress in dealing with the well-known challenges in the functioning of the Agreement.

As I have already mentioned, one of the main goals of the EEA Agreement is to protect the homogeneity of the EU Internal Market, while extending it to the EEA EFTA States. To achieve this goal we need to ensure that the same legal environment is valid across the EEA. This is unfortunately not always the case.

Currently we register a backlog of 422 legal acts pending to be incorporated into the EEA Agreement, which is about the same amount as at the time of our last EEA Council meeting in May. To give a better idea about the magnitude, it represents 70% of all legal acts incorporated into the Agreement in 2014. We are pushing this backlog in front of us and despite all efforts we are not able to address it decisively.

It is about 4 years ago when we first raised this serious issue. The figures oscillated up and down and, regrettably, despite all the political commitments by the EEA EFTA Side, the results are below expectations to a large extent as the backlog has constantly amounted to something between 400-600 legal acts.

We fear that the reason is twofold:

On the one hand we see that the amount of legal acts submitted by the EEA EFTA side for incorporation has, despite all political declarations and streamlined administrative procedures, not increased. From the beginning of this year to the end of October, we have received about a hundred legal acts less as compared to the same period the previous year.

On the other hand we register a very little or even no progress on some long standing issues with political aspects, which have been pending for years.

We fully respect the prerogative of your side to have a six months period in which constitutional requirements should be fulfilled. We however regret that this deadline is frequently not respected. Failing to finalise necessary procedures within this time frame should be an exception, which is unfortunately gradually transforming into a routine.

Currently the result is particularly worrying since for more than one third, concretely 11 out of the total of 30 JCDs, the six months period already expired, and they should therefore be applied provisionally.

I would like to reiterate that the political support from both the EEA EFTA governments and Parliaments is essential to make sure that these legal files are successfully addressed.

This year we had also some successes. After reaching a political agreement on incorporation of the European System of Financial Supervision (ESFS) in October 2014, the negotiations seem to be progressing well reaching their final stage. We hope that this process will be finalised soon and this large legislative package would enter into force in the EEA EFTA States in the coming months.

The legal and institutional solution for the ESFS should guide the efforts to find a similar solution for the incorporation of the Third Energy Package into the Agreement and for the EEA EFTA participation in the Agency for the Cooperation of Energy Regulators (ACER).

In the same line of thoughts, we need to continue the technical discussions in view of reaching a mutual understanding and agreement on the outstanding cases where the relevance to the EEA Agreement is disputed by the EEA EFTA side. The Marine Strategy Framework Directive and the Offshore Safety Directive are just two key examples among many others.

The EU side strongly supports and encourages the Icelandic government to make diligent progress in their strategy to fully lift the capital controls. Free movement of capital is a fundamental internal market freedom and is integral part of the European Economic Area acquis, even if restrictions can be implemented temporarily.

We all recognise the need to alleviate social and economic disparities in the EEA, as well as the positive contribution of the EEA and Norway Financial Mechanisms 2009-2014 and their predecessors in reducing economic and social disparities throughout the EEA.

Against this background we welcome the recent conclusion of an agreement on the draft Protocol 38C to the EEA Agreement on the EEA Financial Mechanism 2014-2021 and of the draft Agreement between Norway and the EU on a Norwegian Financial Mechanism for the 2014-2021 period.

We now need to a swiftly conclude the necessary work to enable the new mechanisms to become operational as soon as possible.

## **Intervention of Minister FRICK behalf of Liechtenstein**

Mister Chairman, dear colleagues,

First of all, I would also like to convey our sincere condolences and express our solidarity with France in light of the truly horrific terrorist attacks which took place in Paris last Friday.

The most important issue in the EEA for Liechtenstein over the past two years has been to find a solution to allow for new EU legislation in the financial services sector to become part of the EEA Agreement, to avoid regulatory disparities between the EU and the EFTA pillar in this important sector, and to ensure a continued, unimpeded market access for our financial undertakings in the single market.

My country has been willing and able to incorporate most of the Acquis in this area into its national legislation since 2010 even if it is not yet incorporated into the EEA Agreement.

There currently is a great deal of uncertainty in the financial market in Liechtenstein even with regard to regulatory areas that have already been covered in the EEA. There are doubts among Liechtenstein undertakings as regards the access to the single market on an equal footing, if the new amending legislation that is being held back will not become applicable to Liechtenstein under the EEA very soon. Especially in financial markets, the timely application of the same set of rules is decisive in order to achieve stability, predictability and reliability.

The significant time gap between the application of these EU acts in the EU States and in the EEA EFTA States has severe consequences for the Liechtenstein financial services economy, because this has given rise to business erosion and could potentially lead to new and unjustified market access restrictions. Clarity, predictability of regulatory developments and legal certainty are crucial for decisions of financial market participants on the location of their businesses.

Unilateral transposition of EU legislation without a legal basis in the EEA Agreement however is not sufficient to create legal certainty for the financial services sector.



What is decisive for them is to know at least the date when the relevant EU legislation will be also applicable in Liechtenstein under the EEA Agreement.

Only if this will happen in the very near future and if we can communicate a reliable timeline for this to happen, will many of the undertakings in the financial services sector actually be prepared to continue to do business out of Liechtenstein.

It is therefore a top priority for my government to ensure that these companies regain confidence again and believe in Liechtenstein and the EEA.

It is – to be frank – difficult to understand that an EEA EFTA State has to wait for more than 4 years to apply EU law in this important sector.

This is also why it is so difficult to understand that the EU side shows so little flexibility in order to allow an early application of EU law by an EEA EFTA State.

The legal arguments brought forward by the Commission against such flexibility are not really convincing.

I sincerely hope that the new timeline that has been set – after several postponements – for the adoption of the decisions on the incorporation of the first package of legal acts in the financial sector can be kept this time. Time is running however. We are already talking about hopefully being able to adopt the decisions sometime in the first half of next year, which is already a year later than what we had expected at the EEA Council Meeting last fall.

I sincerely hope that an agreement can be found to allow an EEA EFTA State to go ahead with the application of the new legislation without having to wait until the incorporating decision has been ratified by all other parties.

Finally, on the EEA Financial Mechanism 2014-2021, I would like to underline the view expressed by the EEA EFTA Chair. We do hope that we will soon be able to finalise the procedures regarding the approval of the Agreement and Protocol 38C, so that we can move further towards the implementation stage.

## **Intervention of Ambassador Ellertsdóttir on behalf of Iceland**

First of all, I would like to echo the words of Minister Helgesen earlier and express, on behalf of the Government and people of Iceland, sincere condolences with France.

Throughout the years the EEA Agreement has proven to be a solid platform of excellent relations between Iceland and the EU.

One of the main aims of the Icelandic government's European Policy from last year is to continue to strengthen Iceland's participation and running of the Agreement.

We have increased our efforts as regards the implementation of acts already incorporated into the EEA Agreement. We are moving in the right direction as the last Single Market Scoreboards have shown and we will continue on this track.

As the Norwegian Chair mentioned earlier, we have allocated considerable time and resources to reduce the backlog. We note with satisfaction the achievements from this hard work. We will continue to streamline our procedures as much as possible in order to bring the number of outstanding legal acts even further down.

As regards the remaining backlog, it is a key task to focus on the difficult issues which we have had on our agenda for a long time. Many of those issues require special attention due to national constitutions or the EEA Agreement itself. In this regard it is important to note that the EEA Agreement was designed to cater for certain political and constitutional realities in the EEA EFTA States.

Unblocking challenging issues requires engagement on all sides and we are prepared to discuss ways and means to come to conclusions on those long outstanding issues.

Regarding the capital controls let me underline that positive and concrete steps have been taken in Iceland to lift the capital controls. This information has been conveyed to the EU and the EEA Joint Committee.

Let me finally underline the point made regarding the very recent developments on the international trade front with the TPP and good progress of the TTIP. These will have impact and it is important that we continue our close consultations on these developments. At the same time we should keep in mind that barriers remain even in the Single Market. That is maybe something we ought to address in order to assess if that situation may be improved.

### **Intervention of Minister HELGESEN on behalf of Norway**

Norway is pleased that an agreement was reached this summer in the negotiations on the continuation of the financial mechanisms for the period 2016-2021. We are also pleased with reaching an agreement on market access for fish and fishery products. We must aim for a swift implementation.

The Norwegian Government gives high priority to reduce the number of EU legal acts not incorporated into the EEA Agreement (the backlog). ESA's scoreboard in October showed that Norway had implemented all directives as of 30 April 2015.

## **6. ORIENTATION DEBATE: THE INTERNAL MARKET STRATEGY FOR GOODS AND SERVICES**

### **Intervention of Minister HELGESEN on behalf of the EEA EFTA States**

Dear colleagues,

As I noted earlier today, the EEA EFTA States welcome the priority given to the Single Market by the European Union. The Internal Market Strategy, together with other important initiatives such as the Energy Union, the Digital Single Market Strategy, the Better Regulation Package and the Capital Markets Union, are of course of great importance for the future of the EEA Agreement.

The EEA EFTA States have followed the development of the Single Market Strategy closely, since it was first announced last year. We have actively contributed in this process, both by submitting written comments and by participating in discussions at expert level.

It is our ambition to participate actively also in the implementation of the Strategy. We now look forward to hearing more about the Strategy itself and the way forward. I give the floor to the EU Council Presidency.

**Intervention of Minister SCHMIT on behalf of the EUROPEAN UNION**

Mr Chairman, dear colleagues,

The subject of our orientation debate is extremely important not only for the Luxembourg Presidency, but also, I am sure, for all members of the EEA. It is of course the internal market strategy for goods and services recently adopted by the Commission. In this connection, I would also like to stress the significant contributions made by the EEA EFTA States to the shaping of that strategy.

The single market is undoubtedly one of Europe's great success stories and its best asset in these times of increased globalisation. It plays a leading role in the construction of a more competitive and more integrated European economy. We all agree that a well-managed single market is the key to paving the way to prosperity, employment and innovation, for both businesses and consumers.

In that connection, on 28 October the European Commission presented a roadmap to deliver on the President of the Commission's political commitment to unleash the full potential of the single market and make it the launchpad for Europe to thrive in the global economy.

It goes without saying that the single market remains a major priority for us all – in all Council configurations. That is why the Luxembourg Presidency welcomes the new strategy and promises to give priority to swiftly starting work in that area.

The Council's Working Party on Competitiveness has already started examining the strategy in preparation for an in-depth discussion on the future policy on the single market for goods and services at the Competitiveness Council at the end of November 2015. That exchange of views at ministerial level will give the Commission feedback on the proposed measures, in particular the timing and priority setting.

Member States' initial reaction was fairly positive and everyone agreed that further consolidation and deepening of the single market is a priority for the Union. In addition, it is important to ensure a high but realistic level of ambition, like that set out by the Commission.

However, we all know that the strategy will bring added value only if it is connected to other important initiatives such as the 'better regulation' package, the investment plan for Europe, etc. Consequently, the Presidency is committed to doing everything it can to coordinate all those activities in close collaboration with the Member States. In addition, the future trio of presidencies – the Netherlands, Slovakia and Malta – has already indicated that further work on that crucial subject remains a priority for them.

The Luxembourg Presidency is committed to an open approach: listening to citizens, supporting businesses, cooperating with partners and institutions to act in the interests of Europe. We believe that such an approach, based on the full involvement of all concerned, is crucial for the strategy's success.

To sum up, the single market lies at the heart of European integration. To restore citizens' trust in the European project, we must create jobs and build a competitive economy, but also maintain our influence in the world. We must make sure that the single market unleashes the European economy's full potential. The ambitious and pragmatic strategy presented by the Commission is results-oriented. In partnership with EU Member States and EEA EFTA States we must now ensure that those concrete measures are applied as quickly as possible. Europe has no time to lose if it wants to secure its competitiveness and its place in the global economy.

I would now like to invite the Commission to present the strategy to us.

## **Intervention of Deputy Director General DELSAUX on behalf of the Commission**

The Single Market is one of Europe's greatest achievements. In the past 50 years, it has created jobs, provided European consumers with greater choice and lower prices and has allowed people to study, live and work where they best see fit.

Yet, the Single Market is not entirely seen by both businesses and consumers as THE market in which they can operate. This is mainly due to remaining barriers that prevent the cross-border provision of goods and services, as well as practices that undermine the trust in the single market.

The Single Market Strategy adopted last week aims at addressing those issues and delivering a Single Market that businesses and consumers can call THEIR OWN.

The actions of this strategy are organised along three strands:

- creating opportunities for consumers, professionals and businesses;
- encouraging and enabling the modernisation and innovation that Europe needs;
- ensuring practical delivery that benefits consumers and businesses in their daily lives.

They are underpinned by economic evidence, focussing on the economically most important obstacles. The legislative actions will be subject to further impact assessment work, which will then be the basis for the Commission's final decisions.

### **Actions under “creating opportunities for consumers, professionals and businesses”:**

#### 1) Enabling the balanced development of the collaborative economy

The collaborative economy is developing at a fast pace and leads to greater choice and lower prices for consumers and provides growth opportunities for innovative start-ups and existing European companies.

However, the emergence of new business models often impacts existing markets, creating tensions with existing goods and services providers.

To address this, the Commission will develop a European agenda for the collaborative economy, including guidance on how existing EU law applies to collaborative economy business models. It will assess possible regulatory gaps and monitor the development of the collaborative economy.

## 2) Helping SMEs and start-ups to grow

SMEs are the backbone of the European economy. Yet far too many obstacles remain for SMEs, start-ups and young entrepreneurs looking to grow in the single market

The Commission has already started and will continue to tackle the following issues holding back the expansion potential of SMEs:

- the complexity of VAT regulations;
- uncertainties over company law;
- understanding and complying with regulatory requirements;
- lack of access to finance;
- fear of punitive bankruptcy laws;
- barriers to innovation.

## 3) A Services Passport for key service areas

Business services and construction account for a big chunk of the EU economy.

Access to reliable information on applicable requirements is often a barrier, notably for cross-border service providers. For example, construction service providers are sometimes equally confronted with certain requirements relating to their organisation in their home state, that make offering their services cross border excessively difficult.

The Commission will launch a legislative initiative introducing a services passport with a harmonised notification form and an electronic document repository to increase certainty and reduce barriers for service providers who seek access to other EU markets in order to expand their activities.

#### 4) Addressing restrictions in the retail sector

Retail and wholesale activities are one of the largest services sectors in Europe. Restrictive regulations create significant barriers to entry, leading to fewer new outlet openings for most store formats, hampering competition and leading to higher prices for consumer.

The Commission will set out best practices on retail establishment and operational restrictions in the single market, in full compliance with the subsidiarity principle and legitimate public policy objectives pursued by Member States.

#### 5) Preventing consumers' discrimination

We regularly receive complaints from consumers who are refused access to cheaper websites, offers or discounts. This goes against the very idea of the single market. It leads to lower consumer trust, greater reluctance to shop cross-border, and lost opportunities.

In line with its geo-blocking initiative in the Digital Single Market strategy and as part of a comprehensive approach to further increase fairness in the single market, the Commission will take measures, both legislative and enforcement actions, to fight unjustified different treatment of customers on the basis of residence or nationality in terms of access, prices, or other sales conditions.

#### **Actions under “encouraging modernisation and innovation”:**

#### 6) Modernising our standards system

Standards are crucial for innovation and progress in the single market: they increase safety, interoperability and competition and help remove trade barriers. They are essential for European competitiveness.



But the standardisation process faces challenges from the changing nature of the economy and diversification of business models, the ever increasing role of information and communication technology, the growing importance of services in today's global value chains, where goods and services are increasingly provided together in a package.

The Commission will propose and agree on a 'Joint initiative on Standardisation' with the European standardisation community. It will also issue dedicated guidance on service standardisation. This will give businesses and consumers confidence in cross-border services and enhance cross-border trade.

#### 7) More transparent, efficient and accountable public procurement

Public procurement represents around 19 % of EU GDP, with over EUR 2.3 trillion being spent each year by public authorities and utilities. In 2014, the EU adopted a major overhaul of the EU procurement framework, simplifying procedures, making the rules more flexible and adapting them to better serve other public sector policies, in particular innovation.

But the EU can and must go further. In particular for large-scale infrastructure projects, the complexity and duration of the procurement process often leads to costly delays.

The Commission will set up a voluntary ex ante assessment mechanism of the procurement aspects of certain large-scale infrastructure projects.

#### 8) Consolidating Europe's intellectual property framework

Intellectual property-intensive sectors account for 39 % of GDP and for 35 % of jobs in the EU. Intellectual property is a force for innovation.

There has been great progress with regard to intellectual property protection in Europe, particularly through the recent adoption of the Unitary Patent system.

But some things still need to be done. For example for the Unitary Patent we need to get the endgame right. We need to address uncertainties over how the Unitary Patent will work together with national patents and national supplementary protection certificates

Also, as announced in the Digital Single Market Strategy for Europe, the Commission will review the IPR enforcement framework. We want to respond to the increasingly cross-border nature of infringements. Here we will take a ‘follow the money’ approach to deprive commercial-scale infringers of their revenue flows. They are the ones that hurt the EU Economy most.

### **Actions under “ensuring practical delivery”:**

#### 9) A culture of compliance and smart enforcement

Effective compliance is essential to delivering the opportunities and benefits of the single market. To date, there are way too many open infringement proceedings. In addition, many people and companies are still unaware of the possibilities available to them with regard to having their rights respected

All this weakens the single market and lowers people’s confidence. Changing this means covering all stages of policy making from policy design to implementation to information

The Commission will apply a smart enforcement strategy, including sectoral strategies. The Commission will further deepen its partnership with Member States through implementation plans for new major legislation, compliance dialogues organised on a yearly basis with each Member State and the possible development of a data analytics tool to improve the monitoring of single market legislation.

#### 10) Improving the delivery of the Services Directive by reforming the notification procedure

The Services Directive obliges Member States to notify the Commission of new regulatory measures affecting services. This is to ensure that all new regulatory measures imposed by Member States are non-discriminatory, justified by public interest objectives, and proportionate.

Yet despite this, there are still a multitude of varying national rules and regulations and the notification procedure is often not complied with.

Seven Member States have failed to notify any new regulations since the entry into force of the Services Directive in 2009. Five Member States have notified only very few new regulations. By contrast, other Member States have sent large numbers of notifications.

This is why we will propose legislation to improve the notification procedure under the Services Directive. This proposal will extend the successful features of the existing procedure for goods and information society services to other services.

### 11) Strengthening the Single Market for goods

Goods generate around 75 % of intra-EU trade. Regulatory obstacles have been removed for over 80 % of industrial products through the adoption of common rules and, where no such Union rules exist, through the principle of mutual recognition.

Despite the high degree of market integration in the area of goods, an inadequate application of the mutual recognition principle leads to lost opportunities for the economy as a whole.

The Commission will present an EU-wide action plan to increase awareness of mutual recognition and revise the Mutual Recognition Regulation. It will also launch a comprehensive set of actions to further enhance efforts to keep non-compliant products from the EU market by strengthening market surveillance and providing the right incentives to economic operators

### **Conclusion**

We believe this strategy is proposing a concrete and ambitious set of actions to remove economically significant barriers that will help finally calling the Single Market OUR market.

We are counting on all parties and in particular on Member States to strongly support this ambitious and urgently needed programme and help make a significant step forward in the interest of citizens and businesses across Europe.

## **Intervention of Minister HELGESEN on behalf of Norway**

Participation in the Internal Market is the core of Norway's economic policy. Even continue with oil and gas depend on the single market for growth and jobs. We will participate whole-heartedly in the further development of the Single Market.

We welcome the adoption of the Internal Market Strategy and its close link to the Digital Single Market Strategy. We need to ensure that regulations at European as well as national level facilitate innovation and growth in the digital economy.

We therefore agree with the approach taken in the Single Market strategy regarding the collaborative economy. Starting by clarifying and taking stock of the existing legal framework is appropriate.

The collaborative economy may disrupt some existing structures. We should face this without anxiety. The ability to develop and utilise new technology at the expense of existing technologies is an important characteristic of successful economies.

European states have national regulations that can and should be modernised and simplified. The collaborative economy adds new urgency to this issue.

This brings me to another important part of the Strategy: that of the Internal Market for Services.

We still have a long way to go to create a well-functioning Internal Market for services. In 2012 the Commission estimated that proper implementation of the Services Directive could potentially lead to 1,8 % GDP growth in the EU. In 2014 it estimated that only 0,1 % growth had been achieved. We cannot afford to leave this potential for growth untapped.

The main problem is that national regulations create too many and too high barriers for service providers. This is true both for cross-border service provision and establishment.

Pursuant to the Services Directive, EEA states shall notify new regulations creating or adjusting requirements to service providers. The notification procedure is meant to prevent the adoption of new legislation which unnecessarily restricts establishments and trade in services. The current procedure is not sufficiently robust to achieve this aim. In the EEA EFTA comment we highlighted the need to improve the notification procedure and we note that this is one of the proposed actions in the strategy.

However, an improved notification procedure can only tackle future regulation. Existing barriers are another matter which we cannot neglect.

In the EEA EFTA comment we also addressed the need to ensure uniform application of the proportionality principle in the field of services. We feel this is well taken care of in the strategy. In our view, this is one of the key elements to make the Services Directive deliver, linked to an improved notification procedure.

We prefer a horizontal approach to the Internal Market for services. This is one reason why the EEA EFTA comment states that harmonisation is not the preferred option at this stage. We believe that mutual recognition should be considered, and we are pleased to see this reflected in the internal market strategy.

When the Commission now announce that they will propose legislation in the area of professional services, it is necessary to see beyond individual sectors. A service provider may operate in several services sectors. This must not be hindered by sector based regulations.

The Single Market for goods is advanced and successful. However, it is not something to be taken for granted. It must be maintained, and there is still room for improvement. Norway believes that the Commission's proposals regarding the Internal Market for goods are appropriate. We support work to increase awareness of mutual recognition and to strengthen market surveillance.

Let me now turn to public procurement.

We agree with the Commission that a uniform system of enforcement of the procurement rules - ensuring equal access to justice for economic operators - is a prerequisite to the efficient functioning of the Internal Market. We also agree that a closer cooperation between the surveillance authorities and the EEA States in enforcement matters may well be required to achieve more compliance and uniform enforcement.

On the proposed “network” of first instance administrative review bodies, we would, however, ask the Commission to further explain the intended role and tasks of the network foreseen in the field of procurement.

To conclude, Norway will do its best in contributing to the implementation of the strategy. I am aware of that we also have to assume our responsibilities at national level in order to make the Single Market a practical reality.

I will then give the floor to my colleagues from Iceland and Liechtenstein.

### **Intervention of Ambassador Ellertsdóttir on behalf of Iceland**

It is safe to say that by joining the EEA Agreement in 1992, and becoming part of the internal market, Iceland took a side with a rule-based trade regime, where our economic operators usually only have to meet one common standard. The Single Market has delivered prosperity and development to Europe and the economic benefit for a small economy as ours, cannot be underestimated. The value of the Single Market for Iceland is constantly demonstrated in our overall trade portfolio.

Since 1992, the single market has developed through series of reforms that have all aimed at harnessing the economic gains of the Single Market. We welcome the new Internal Market Strategy – and how targeted it is and in particular its evidence and impact-orientated approach. We also take note that many of the main initiatives on the development of the internal market are actually outside the Internal Market Strategy, in that regard we look forward to examine the Labour Mobility Package.

In the field of gender equality we sometimes say that the norms are in place, and now words need to be followed by action. The same can be said about the Internal Market where the norms at European level are largely in place. The success of the Internal Market Strategy will to a large extent be determined by domestic implementation and actions taken by national authorities. This is in particular true regarding services where we for example note the emphasis placed on the regulation of professions.

I can inform that recently the Government commissioned work to review the current legal framework relating to licence requirements for certain businesses with a view to modernize it, simplify public oversight and remove unnecessary barriers to trade. The appointed task force shall deliver proposals 1 April 2016. We welcome that better regulation will be the guiding light in this work as elsewhere, and our common goal should be to cut red tape where possible and appropriate, in order to deliver economic gains to our citizens, companies and economies.

I can further inform that in September 2013 the Prime Minister of Iceland appointed an Advisory Committee on Better Regulation, comprising representatives from the industries, commerce, the labour unions and municipalities. The task of the Committee is to advise ministries, agencies and stakeholders on the implementation of rules on public oversight of companies, including inspections.

The Committee will also provide advice to the Government regarding better regulation for the industries and will serve as a consultative forum for the state, the municipalities and stakeholders in this regard. All the Ministries are of course involved and each of them has appointed a better regulation contact that liaison with the Advisory committee.

Much information has already been gathered which will serve as a good basis for future work. Certain targeted initiatives have also been indicated, such as regarding public consultations on the internet, on improving the working methods of inspection and control agencies and work towards reforming the legal framework relating to licencing and surveillance. All of this seems to coincide well with the approach of the Internal Market Strategy.

This being said, we look forward to contributing to the process ahead. We recognize the role foreseen for the REFIT platform. The Internal Market Advisory Committee (IMAC) has also served us well in the past as a forum for consultation amongst EEA States and the Commission on the internal market. Iceland values this forum, but perhaps it is time to examine if the current format is the best to deliver good council to the Commission or if a different format would be more effective, for example by meeting on more delimited subjects.

It is our common goal to improve and nourish the Internal Market and we are committed to doing our part.

### **Intervention of Minister FRICK on behalf of Liechtenstein**

Dear Chairman, dear colleagues,

Liechtenstein is very interested in the new Single Market Strategy and we welcome the improvement and upgrading of the Single Market which is the overarching goal of the Strategy.

Liechtenstein has been participating in the Single Market through the EEA for over 20 years. This participation has been highly appreciated by our economic actors.

As a country with a small and very competitive outward-looking economy, Liechtenstein is used to being highly dependent on cross-border trade and international economic developments. We are therefore highly dependent on an effective Single Market, the uniform application of EU-law and legal certainty.



Liechtenstein benefits from a well-diversified and innovative economy with a large industrial sector, which contributes nearly 40% to the gross value added. Our industry consists of a few relatively large industrial companies, which are players in global markets, and many small- and medium-sized enterprises.

Having in mind in particular the nearly 4'000 small- and medium-sized enterprises situated in Liechtenstein, we particularly endorse the goal of the European Commission to help small and medium-sized enterprises and start-ups to grow. For them, it is important that obstacles to trade are removed, market access is simplified, uncertainties surrounding corporate law are eliminated and access to secure funding is facilitated. We are therefore very pleased that all these points are covered by the new Single Market Strategy.

Looking at our global players and the fact that Liechtenstein is highly dependent on access to foreign markets, we also welcome the modernization of the standards system and the consolidation of Europe's intellectual property framework. The modernization of standards is very important because it leads to legal certainty, security in general and interoperability. Overall it is going to strengthen competition and eliminate technical trade barriers.

Another major concern for Liechtenstein is the cross-border mobility for companies and service providers as well as the improvement of recognition of professional qualifications. In this context, we endorse the elimination of borders to the services sector and especially the introduction of the services passport.

In order to increase the competitiveness of Europe, we also need to make stronger use of the opportunities offered by digital technologies.

To sum up, the Single Market can only be a success story, if all 31 EEA States uniformly implement and apply respective EU-law.

This is indispensable so that our economic operators can avail themselves of legal certainty, which is a corner stone of economic growth.

Liechtenstein is a strong advocate of the Single Market and we are therefore prepared to actively contribute to the realization of an upgraded and enhanced Single Market.

## **7. ADOPTION OF THE CONCLUSIONS OF THE 44<sup>TH</sup> EEA COUNCIL**

### **Intervention of Minister HELGESEN on behalf of the EEA EFTA States**

We have not been able to reach agreement on the Draft Conclusions of the EEA Council before the meeting. There is one outstanding issue, namely paragraph 26. We can approve the Conclusions provided this paragraph is deleted. I would like to give the floor to Iceland.

### **Intervention of Ambassador Ellertsdóttir on behalf of Iceland**

I can confirm that the draft conclusions of the EEA Council are indeed acceptable to Iceland, with the exception of paragraph 26. Fisheries management is not covered by the EEA Agreement. It is therefore not appropriate to agree a conclusion on this issue in this forum. We can therefore approve the Conclusions provided this paragraph is deleted.

The positive aspect of the three party agreement on mackerel, reached in March 2014, is that these parties agreed to follow scientific advice on total allowable catch from this year onwards. This has been a primary issue for Iceland.

Finally, Iceland still places a great emphasis on reaching a settlement on the mackerel dispute, as well as for all our other shared stocks, securing sustainable utilization of these important fish stocks in line with scientific advice.

## **Intervention of Minister SCHMIT on behalf of the EUROPEAN UNION**

Mr Chairman, dear colleagues,

We note with regret that, as in previous years, we were unable to come to an agreement in advance of the EEA Council concerning a paragraph on the management of mackerel, i.e. paragraph 26 of our draft text.

The wording of that paragraph is neutral, although the lack of joint management by coastal States of mackerel in the North-East Atlantic continues to raise real concerns in the EU, in particular in light of the latest scientific advice. Our position has not changed since our last meeting in May.

Despite the lack of progress between the coastal States on that matter, the EU, Norway and the Faroe Islands are working together through the trilateral agreement signed in 2014, which has been supplemented by a long-term management strategy approved last month. The EU continues to stress that the door is wide open for Iceland to join the agreement. The EU strongly hopes that discussions between coastal States will be able to make progress on that front, so that an agreement can be reached between the four parties, offering stability and predictability to all.

In this connection, we ask that you agree to the inclusion of paragraph 26 in the conclusions. From what I have heard, the chances are not great.

## **Intervention of Ambassador Ellertsdóttir on behalf of Iceland**

First, I would like to reiterate that the EEA Agreement does not cover the management of fish stocks. It is therefore not appropriate to discuss the mackerel dispute here or include it in the EEA Council Conclusions.

Iceland has been committed to work constructively in order to reach a settlement on the mackerel issue.

It is difficult to understand that the EU side continues to raise this issue in this fora despite the fact that there is as we best understand, no disagreement between Iceland and EU on the acceptable and balanced share for Iceland.

I can only repeat how regrettable it was that we did not manage to take full advantage of the window of opportunity during the negotiations in 2013 and early 2014 in order to reach a fully fletched Costal State agreement.

**Intervention of Minister SCHMIT on behalf of the EUROPEAN UNION**

Thank you Mr Chairman,

We have taken due note of your good intentions and your intention to demonstrate a spirit of cooperation on this matter, although we remain convinced that paragraph 26 as proposed presents an added value. However, we do not wish to jeopardise the adoption of the rest of our conclusions, which remain the priority for our delegations. Therefore we will not insist on maintaining paragraph 26 in the draft conclusions and we agree to its deletion, although this does not mean that we are changing our position on the matter.

**Intervention of Minister HELGESEN on behalf of the EEA EFTA States**

Thank you for the flexibility you have shown with regard to the conclusions, which are hereby adopted.

**8. OTHER BUSINESS**

*none*

**Closing remarks of Minister HELGESEN on behalf of the EEA EFTA States**

We have then concluded the items of our agenda today. I would like to express my satisfaction with this meeting and I would like to thank the Luxembourg Presidency, the European Commission, the European External Action Service, the Council Secretariat, and my colleagues from Liechtenstein and Iceland, for their participation and constructive dialogue in this meeting. We look forward to working with the Dutch Presidency in the months ahead.

**Closing remarks of Minister SCHMIT on behalf of the EUROPEAN UNION**

Thank you! I would also like to thank you for organising this meeting, which has demonstrated extremely solid cooperation between the EU and the EEA EFTA States. I share your satisfaction at the end of this 44th meeting of the EEA Council and would like to thank the EEA EFTA States, the EFTA Secretariat, the EFTA Surveillance Authority and the EU Member States very much for their contributions to the meeting.

**Minister HELGESEN on behalf of the EEA EFTA States**

I then declare the meeting closed.

  

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**44th meeting of the**

**EEA COUNCIL**

**(Brussels, 17 November 2015)**

**LIST OF DELEGATIONS**

**I. The Governments of the EEA – EFTA States were represented as follows:**

**THE KINGDOM OF NORWAY**

Mr Vidar HELGESEN	Minister of EEA and EU Affairs, Office of the Prime Minister
Ms Oda Helen SLETNES European Union	Ambassador, Mission of Norway to the
Ms Aud HELLSTRØM	Minister Counsellor, Mission of Norway to the EU
Mr Helge SKAARA	Director General, Ministry of Foreign Affairs
Ms Wera HELSTRØM	Head of Information, Mission of Norway to the EU
Mr Rune BJAASTAD	Senior Communications Advisor, Ministry of Foreign Affairs
Ms Maria MARTENS	Senior Advisor, Ministry of Foreign Affairs
Ms Grethe Dale JOHANSEN	Senior Advisor, Ministry of Foreign Affairs
Mr Knut HERMANSEN	Minister Counsellor, Mission of Norway to the EU
Ms Kristin TRAAVIK	Secretary, Mission of Norway to the EU

## **ICELAND**

Mr Bergdis ELLERTSDÓTTIR	Ambassador, Head of the Icelandic Mission to the EU
Mr Ragnar G. KRISTJÁNSSON	Deputy Head of Mission, Icelandic Mission to EU
Mr Högni KRISTJÁNSSON	Director General for External and Economic Affairs
Ms Valgerdur María SIGURDARDÓTTIR	Counsellor for Justice and Home Affairs, Transport and Telecommunications
Mr Angantýr EINARSSON	Counsellor for Finance and Economic Affairs
Ms Adalheidur JÓNSDÓTTIR	Counsellor for Education, Science and Culture
Mr Kristján Freyr HELGASON	Counsellor for Fisheries and Agriculture
Mr Ingólfur FRIDRIKSSON	First Secretary
Ms Sigríður EYSTEINSDÓTTIR	First Secretary
Mr Andri JÚLIUSSON	First Secretary

## **THE PRINCIPALITY OF LIECHTENSTEIN**

Ms Aurelia FRICK	Minister of Foreign Affairs
Mr Martin FRICK	Ambassador, Director of the Office for Foreign Affairs
Mr Kurt JÄGER	Ambassador, Mission of Liechtenstein to the EU
Mr Dominik MARXER	Counsellor, Mission of Liechtenstein to the EU
Ms Anne CORNU	Counsellor, Mission of Liechtenstein to the EU

**II. The European Union were represented as follows:**

**GRAND DUCHY OF LUXEMBOURG**

**(PRESIDENCY-IN-OFFICE OF THE COUNCIL OF THE EUROPEAN UNION)**

Mr Nicholas SCHMIT	Minister of Labor, Employment and the Social and Solidarity Economy
Mr Jean-Louis THILL	Deputy Director for International Economic Relations and European Affairs at the Ministry of Foreign and European Affairs
Mr Marc BICHLER	Ambassador-at-Large for Climate Change and Chair of the EFTA Working Party of the EU Council
Mr Philippe THILL	Attaché
Mr Georges EISCHEN	Attaché

**EUROPEAN COMMISSION**

Mr Pierre DELSAUX	Deputy Director-General, Directorate General GROW
Mr Tom DIDERICH	International Coordination Officer, Directorate General GROW

**EUROPEAN EXTERNAL ACTION SERVICE**

Mr Thomas MAYR HARTING	Managing Director for Europe and Central Asia
Mr Claude MAERTEN	Head of Division, Western Europe
Mrs Monika CSAKI	Desk officer for Norway, Iceland and Lichtenstein
Mr Vaclav NAVRATIL	EEA Desk, Western Europe Division
Mr Andrew BYRNE	Political Advisor, EU Delegation to Norway



## **COUNCIL OF THE EUROPEAN UNION - GENERAL SECRETARIAT**

Ms Bärbel DÜRHAGER	Desk Officer for Non-EU Western Europe
Ms Dhana IRSARA	Administrative Assistant for Non-EU Western Europe

### **III. The European Free Trade Association (EFTA) were represented as follows:**

#### **EFTA SECRETARIAT**

Mr Kristinn F. ÁRNASON	Secretary-General
Mr Dag Wernø HOLTER	Deputy Secretary-General
Mr Georges BAUR	Assistant Secretary-General
Mr Tómas BRYNJÓLFSSON	Director, Services, Capital, Persons & Programmes Division
Ms Line BØYSTAD	Acting Director, Goods Division
Ms Dóra Sif TYNES	Head of EEA Legal Services, EEA Coordination Division
Mr Marius VAHL	Head of EEA Policy, EEA Coordination Division
Mr Ingvar SVERRISSON	Officer, Services, Capital, Persons & Programmes Division
Mr Fredrik NORDBØ	Trainee, EEA Coordination Division
Ms Gudrun KVARAN	Trainee, Secretary-General's Office

#### **EFTA SURVEILLANCE AUTHORITY**

Mr Sven Erik SVEDMAN	President
Ms Helga JONSDÓTTIR	College Member
Mr Frank BÜCHEL	College Member

**EEE 1608/15****PROGRESS REPORT**

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Subject: Progress Report by the EEA Joint Committee to the 44<sup>th</sup> meeting of the EEA Council

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**Decision making**

1. The EEA Joint Committee has adopted 165 Joint Committee Decisions (JCDs) incorporating 243 legal acts since the EEA Council of 18 May 2015. In the period from 1st January to 1st November 2015, the EEA Joint Committee has adopted 293 JCDs incorporating 436 legal acts. In the same period of 2014, 234 JCDs incorporating 552 legal acts were adopted.
2. As of 1st November 2015, there were 422 outstanding legal acts where the compliance date in the EU had passed, compared to 421 acts on 4 May 2015. Since May 2015 therefore the overall number of outstanding legal acts has increased by 0.2%.
3. Since the last EEA Council, the EFTA side has continued to identify further actions needed to permanently reduce the number of outstanding acts and avoid their re-emergence.
4. The number of JCDs awaiting the fulfilment of constitutional requirements where the six month period had expired increased from 3 on 1 May 2015 to 11 on 1 November 2015. Additionally, on 1 November 2015 there were 19 JCDs where the entry into force depended on the fulfilment of constitutional requirements of other already adopted JCDs or the incorporation of an EU legal act into the EEA Agreement, as compared to 17 on 1 May 2015.

5. Important decisions incorporated since the 43rd meeting of the EEA Council include:
- Decision No 147/2015 concerning novel foods and novel food ingredients
  - Decision No 188/2015 on ship-source pollution and on the introduction of penalties for infringements
  - Decision No 191/2015 on the protection of the environment through criminal law
  - Decisions Nos 197, 198, and 200/2015 on animal by-products
  - Decision No 229/2015 on industrial emissions and integrated pollution prevention and control

### **Decision shaping**

6. The EEA EFTA States are participating in 14 EU programmes and 18 agencies, of which 13 were regulatory agencies and five executive agencies.
7. Since the last EEA Council, the EEA Joint Committee has taken note of EEA EFTA Comments on the following subjects, to which the EU side has provided oral and/ or written reactions:
- Internal Market Strategy for Goods and Services
  - Better Regulation Package

### **Briefings in the Joint Committee**

8. Briefings on the following subjects were provided in the EEA Joint Committee:
- Capital controls in Greece
  - Capital controls in Iceland
  - Transatlantic Trade and Investment Partnership (TTIP) negotiations

## Status of outstanding issues

9. The discussions on the following issues have not yet been concluded:
- the Regulations establishing the European Supervisory Authorities, and related pieces of legislation in the field of financial services,
  - the Directive on the Deposit Guarantee Scheme,
  - the Third Package for the Internal Energy Market,
  - the remaining part of the 2009 TELECOM package, including the Regulation establishing the Body of European Regulators for Electronic Communications (BEREC),
  - the Third Postal Directive,
  - the Regulation on Medicinal Products for Paediatric Use,
  - the Marine Strategy Framework Directive,
  - the Offshore Safety Directive,
  - the EU legal acts in the area of organic production.

The Joint Committee has reiterated its determination to work towards the rapid conclusion of these issues.

## Financial Mechanisms

10. For the period 2009-2014, 993.5 million euro (including Croatia) has been set aside under the EEA Financial Mechanism and an additional 804,6 million euro (including Croatia) under the Norwegian Mechanism to contribute to reducing economic and social disparities in 16 EU countries in Central and Southern Europe and to strengthening bilateral relations.
11. Programmes and projects under both Mechanisms may be implemented until 2016. By 1st May 2014, all of the 150 programmes had been approved by the donors. The Commission has given its consent to all programmes.
12. The draft Protocol 38c to the EEA Agreement on a continuation of the EEA Financial Mechanism for the 2014-2021 period was initialled on 17 July 2015 and the agreement on the text of draft Protocol 38c as well as of the Agreement on an EEA Financial Mechanism 2014-2021 will be confirmed by an exchange of letters

**CONCLUSIONS**

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Subject: Conclusions of the 44th meeting of the EEA Council  
(Brussels, 17 November 2015)

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1. The forty-fourth meeting of the EEA Council took place in Brussels on 17 November 2015 under the Presidency of Mr Vidar Helgesen, Minister of EEA and EU Affairs at the Office of the Prime Minister of Norway. The meeting was attended by Ms Bergdis Ellertsdóttir, Ambassador, Head of the Mission of Iceland to the EU, Ms Aurelia Frick, Minister of Foreign Affairs of Liechtenstein, Mr Nicolas Schmit, Minister of Labour, Employment and the Social and Solidarity Economy of Luxembourg, representing the Presidency of the Council of the European Union, as well as by Members of the Council of the European Union and representatives of the European Commission and the European External Action Service.
2. The EEA Council noted that, within the framework of the Political Dialogue, the Ministers would discuss *the Refugee Crisis, the Syria Conflict, as well as Russia and Ukraine*. An orientation debate was held on *the Internal Market Strategy for Goods and Services*.
3. The EEA Council acknowledged the key role played by the EEA Agreement throughout the last 20 years in advancing economic relations and internal market integration between the EU and the EEA EFTA States. The EEA Council highlighted that the Agreement had been robust and capable of adapting to changes in EU treaties and EU enlargements.

4. Emphasising the fact that greater knowledge of the EEA Agreement throughout the EEA is in the interest of all Contracting Parties, the EEA Council urged them to ensure that information on the EEA Agreement is made readily and easily available.
5. Noting the Progress Report of the EEA Joint Committee, the EEA Council expressed its appreciation for the work of the Joint Committee in ensuring the continued successful operation and good functioning of the EEA Agreement.
6. The EEA Council recognised that the good functioning and further development of the extended Single Market would be a key driver for renewed growth in Europe. In this context, it welcomed the adoption of the Better Regulation Package and the Internal Market Strategy for Goods and Services by the European Commission, and the contributions of the EEA EFTA States to these initiatives. The EEA Council welcomed the intention of the EEA EFTA States to follow up the various proposals resulting from these initiatives and to continue to contribute to their development.
7. The EEA Council emphasised the need for responsibility and solidarity among the countries of Europe to overcome the social and economic challenges that had arisen from the economic crisis. In particular, the EEA Council expressed concern regarding the continued high level of youth unemployment in some EEA Member States.
8. The EEA Council recognised the still existing need to alleviate social and economic disparities in the EEA, as well as the positive contribution of the EEA and Norway Financial Mechanisms 2009-2014 and their predecessors in reducing economic and social disparities throughout the EEA.

9. Against the background of the initialling of the draft Protocol 38C to the EEA Agreement on the EEA Financial Mechanism 2014-2021 and of the draft Agreement between Norway and the EU on a Norwegian Financial Mechanism for the 2014-2021 period, the EEA Council called for a swift conclusion of the necessary work to enable the new mechanisms to become operational as soon as possible.
10. Against the background of the initialling of the draft protocols on trade in fish and fisheries products between Norway and the EU and Iceland and the EU, and the EEA Council also called for a swift conclusion of the necessary work.
11. The EEA Council noted that free movement of capital is a fundamental internal market freedom and an integral part of the EEA acquis and acknowledged that restrictions can be implemented only temporarily on the basis of the provisions of Article 43 of the EEA Agreement.
12. The EEA Council welcomed the further progress made in recent months on the technical work necessary for the incorporation into the EEA Agreement of the EU Regulations on the European Supervisory Authorities in the area of financial services. It stressed the need to swiftly conclude this process in order to ensure effective and homogenous supervision throughout the EEA, as called for by the EU and EEA EFTA Ministers of Finance and Economy at their informal meeting of 14 October 2014. The EEA Council also highlighted the high importance of incorporating other outstanding legislation in the field of financial services as soon as possible in order to ensure a level playing field throughout the EEA in this important sector.
13. Acknowledging the contribution made by EU programmes to building a more competitive, innovative and social Europe, the EEA Council welcomed the participation of the EEA EFTA States in EEA-relevant programmes to which they contribute financially.

14. The EEA Council welcomed the ongoing efforts made to both reduce the number of EEA-relevant EU acts awaiting incorporation into the EEA Agreement and to accelerate the incorporation process. While commending all the steps undertaken in the course of the last years, the EEA Council noted that the number of acts awaiting incorporation was still too high. The EEA Council called for continued work in order to significantly and durably reduce the current backlog and thereby ensure legal certainty and homogeneity in the EEA. It urged all parties to engage constructively to find solutions to pending difficult issues.
15. The EEA Council welcomed the incorporation of a number of important legal acts, including the Regulation on Novel Foods and Novel Food Ingredients and the Directives on ship-source pollution and the protection of the environment through criminal law.
16. The EEA Council noted that progress was still needed on a number of important outstanding issues and looked forward to reaching a conclusion as soon as possible, in particular regarding the Third Postal Directive, the 2009 regulatory framework for electronic communications (including the Regulation on the Body of European Regulators for Electronic Communications – BEREC), the Directive on Deposit Guarantee Schemes, the Marine Strategy Framework Directive, the Regulation on Medicinal Products for Paediatric use and the EU legal acts in the area of organic production.
17. The EEA Council noted that there was an increase in the number of Joint Committee Decisions, for which the six-month deadline provided for in the EEA Agreement with regard to constitutional clearance had been exceeded. It encouraged the EEA EFTA States to strengthen their efforts to resolve the pending cases as soon as possible and to avoid such delays in the future.



18. The EEA Council placed great importance on continued close cooperation between the EU and the EEA EFTA States in environment, energy and climate change policies, particularly in light of the 2030 Framework for Climate and Energy and the Framework Strategy for a Resilient Energy Union with a Forward-Looking Climate Change Policy. The close cooperation should also continue in particular in the areas of security of energy supply, emissions trading, promotion of competitive, climate resilient, safe and sustainable low carbon energy, energy efficiency, renewable energy resources, carbon capture and storage (CCS), as well as marine environment and other environmental issues such as waste, chemicals, water resource management and industrial pollution.
19. The EEA Council underlined in particular the importance of the EU, its Member States and the EEA EFTA States working closely together to adopt an ambitious, dynamic, durable and legally binding global agreement at the 21<sup>st</sup> Conference of the Parties (COP21) of the United Nations Framework Convention on Climate Change (UNFCCC) in Paris in December 2015, in order to keep the global temperature increase below 2°C, including the objective that all states should pursue transformative pathways towards a long-term vision of global and sustainable climate neutrality and climate resilience in the second half of this century. The EEA Council welcomed submission of Intended Nationally Determined Contributions (INDCs) of the EU and its Member States and the EEA EFTA States well ahead of the COP21, and urged all countries which have not yet done so to join this collective effort and submit their fair and ambitious INDCs as soon as possible.
20. With regard to the Third Package for the Internal Energy Market, the EEA Council underlined the importance of stepping up efforts to incorporate this legislative Package into the EEA Agreement in order to establish a fully functional internal market for energy, and in particular encouraged the parties to identify mutually acceptable solutions for appropriate EEA EFTA participation in the Agency for the Cooperation of Energy Regulators (ACER).

21. The EEA Council acknowledged the significance of the negotiations on a Transatlantic Trade and Investment Partnership (TTIP) between the European Union and the United States. The EEA Council welcomed the exchange of information between the European Commission and the EEA EFTA States initiated in the EEA Joint Committee in December 2014. Bearing in mind inter alia Protocol 12 to the EEA Agreement, the EEA Council encouraged a continuation of this exchange of information.
22. The EEA Council acknowledged that the Contracting Parties, pursuant to Article 19 of the EEA Agreement, had undertaken to continue their efforts with a view to achieving the progressive liberalisation of agricultural trade. The EEA Council welcomed the initialling, on 17 September 2015, of Agreements on the further liberalisation of agricultural trade and on the protection of geographical indications between the EU and Iceland.
23. The EEA Council stressed the need for further progress in the negotiations between the EU and Norway on the protection of geographical indications and on further liberalisation of agricultural trade within the framework of Article 19 launched in February 2015.
24. The EEA Council welcomed the conclusion, on 17 September 2015, of negotiations between Iceland and the EU on the further liberalisation of trade in processed agricultural products within the framework of Article 2(2) and Article 6 of Protocol 3 to the EEA Agreement.
25. The EEA Council encouraged the Contracting Parties to continue the dialogue on the review of the trade regime for processed agricultural products within the framework of Article 2(2) and Article 6 of Protocol 3 to the EEA Agreement in order to further promote trade in this area.
26. The EEA Council underlined the importance of continuing the practice of inviting officials from the EEA EFTA States to political dialogues held at the level of the relevant EU Council working parties.

27. The EEA Council underlined the importance of inviting EEA EFTA Ministers to informal EU ministerial meetings and ministerial conferences relevant to EEA EFTA participation in the Internal Market, and expressed its appreciation to the current Luxembourg and incoming Dutch Presidencies for the continuation of this practice.
  28. The EEA Council recognised the positive contributions made by the EEA EFTA States to the decision-shaping process of EEA-relevant EU legislation and programmes through their participation in the relevant committees, expert groups and agencies, as well as through the submission of EEA EFTA Comments.
  29. The EEA Council noted the Resolutions of the EEA Consultative Committee adopted at its meeting in Zagreb on 5 June 2015 on *Investing in quality jobs for sustainable growth* and on *The impact of the Transatlantic Trade and Investment Partnership on the EEA Agreement*.
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