

Agreement on the European Economic Area

PART VII

INSTITUTIONAL PROVISIONS

CHAPTER 2

THE DECISION-MAKING PROCEDURE

Article 97

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

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

Article 98

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

Article 99

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

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

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

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

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

Article 100

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

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Commission shall refer to experts of the EFTA States on the same basis as it refers to experts of the EC Member States.

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

Article 101

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

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

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

Article 102

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

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

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

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

4 If, notwithstanding the application of the preceding paragraph, an agreement on an amendment of an Annex to this Agreement cannot be reached, the EEA Joint Committee shall examine all further possibilities to maintain the good functioning of this Agreement and take any decision necessary to this effect, including the possibility to take notice of the equivalence of legislation. Such a decision shall be taken at the latest at the expiry of a period of six months from the date of referral to the EEA Joint Committee or, if that date is later, on the date of entry into force of the corresponding Community legislation.

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

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

Article 103

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

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

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

Article 104

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