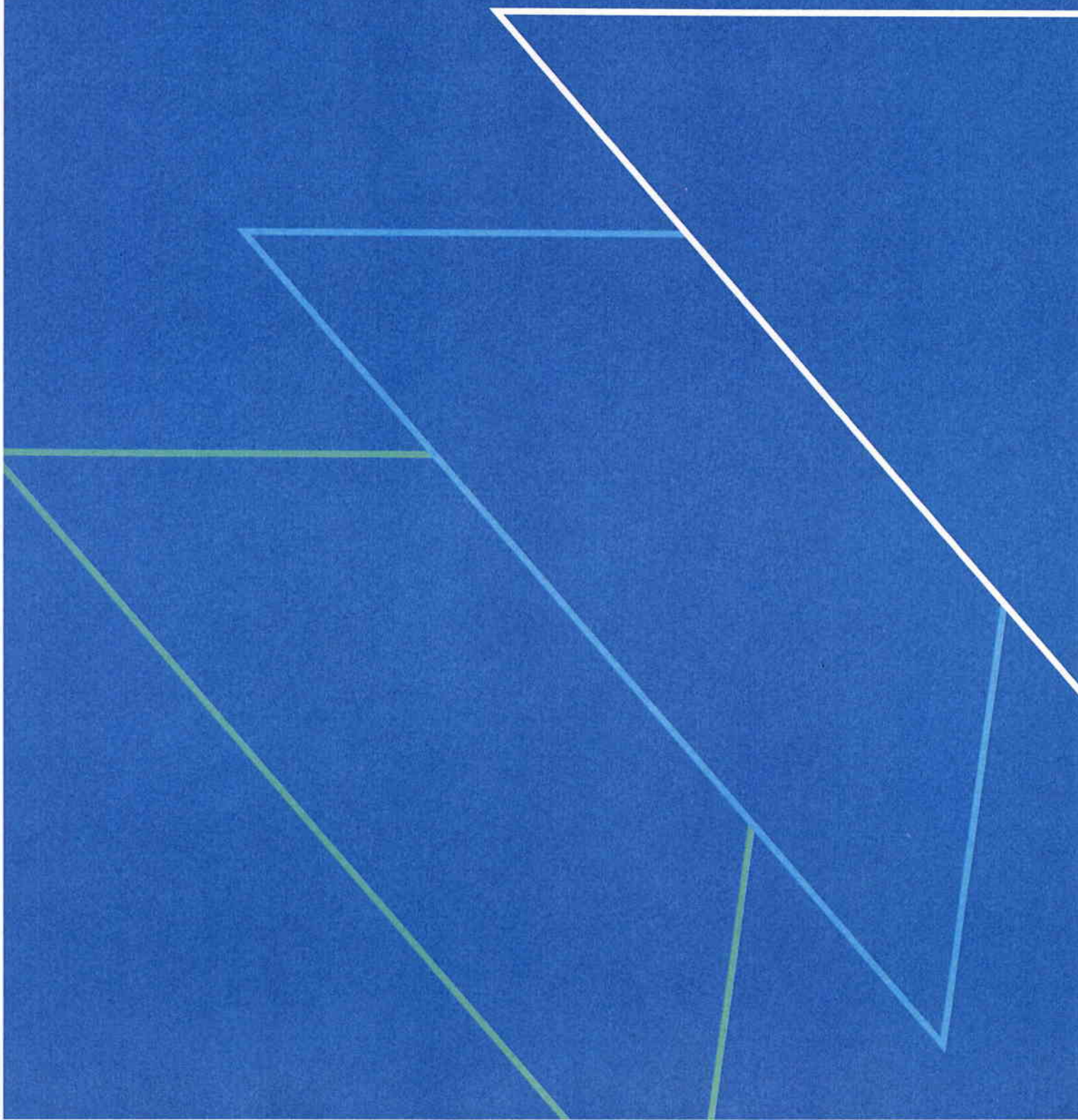




**EFTA SURVEILLANCE AUTHORITY**

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**ANNUAL REPORT '94**





**EFTA SURVEILLANCE AUTHORITY**

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**ANNUAL REPORT '94**



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## FOREWORD

*The first year in the life of an organization is always exciting. For an organization with such complex and specialized tasks as the EFTA Surveillance Authority the excitement was naturally also mingled with apprehension that the basic concepts might be inadequate, the performance flawed by lack of experience, or the tasks simply too overwhelming. By the same token, there were inevitable questions as to whether the EFTA States would be able to take on, in very short time indeed, the whole of the Agreement on the European Economic Area, and to relate to an unfamiliar system of surveillance.*

*What one really does not need in such a situation are profound changes in the political setting. Yet - not unexpectedly, of course - such changes did occur, and with considerable frequency. The Authority had only just started to operate routinely when the breakthrough in the Accession Negotiations gave firm indications that the life of the organization might not extend beyond its first year. Three referenda followed, strengthening this belief. A fourth referendum again changed the outlook, followed by the decision of the EEA Council to retain the EEA Agreement, including its institutional aspects.*

*Despite such external fluctuations, the Authority endeavoured to pursue its surveillance functions with steadiness and consistency. The EFTA States, for their part, generally strove to meet the obligations imposed on them by the EEA Agreement, and co-operated well with the Authority. Furthermore, certain decisions related to the political situation facilitated the Authority's work and helped to assure continuity. The EFTA States realized that without proper transitional arrangements to safeguard rights acquired under the EEA Agreement, the Agreement would lose much of its binding effect in respect of the States acceding to the European Union. They therefore agreed to retain the competences of the Authority (and the EFTA Court) for a period after accession in respect of cases where EU institutions would not be competent. And, after the decision of the EEA Council in respect of the continuation of the EEA Agreement, the Authority was able very quickly to reorganize to meet the tasks of the future in a smaller configuration.*

*All in all, the results of the Authority's work in 1994 must be deemed satisfactory. With regard to its own performance, the Authority found that good recruitment and thorough preparations for over a year before the entry into force of the Agreement served to offset the disadvantages of being a new organization.*

*Already in its report on the activities during the first half year of 1994, the Authority was in a position to conclude that the process of implementing EEA legislation in the EFTA States was progressing well, so that by and large the mechanisms necessary for the functioning of the European Economic Area had been established. Now, half a year later, the Authority may conclude that the EEA Agreement, as it stood at the time of its signature, has in its major aspects been implemented in the national legal systems of the EFTA States. Furthermore, existing state aid schemes have been adapted to conform with the EEA rules, the disciplines with regard to public procurement are being enforced and the business communities are reacting to the exigencies of the competition rules.*



*Through decisions of the EEA Joint Committee, several hundred new acts were added to the EEA Agreement in the course of 1994, bringing the legal basis of the EEA into parallel with that of the EC Internal Market. When the Authority during 1995 has finalized conformity assessments in respect of this additional legislation, the homogeneous European Economic Area will have been fully realized.*

*This is not to say that the process of implementing the vast EEA Agreement in the EFTA States has proceeded without difficulties altogether. This report lists numerous imperfections of technical/legal nature, several instances of delays in the legislative processes, some cases of nonchalant tardiness, and finally a very restricted number of instances where disagreement on substance has prevailed.*

*However, these occurrences should not be allowed to distort the very positive general image of the efforts the EFTA States have made to adjust their legislation and administrative practices to the requirements of the EEA in such a short time.*

*It is symptomatic that in spite of the numerous formal actions which the Authority has launched against Governments, it has so far not had to resort to legal action before the EFTA Court in order to have infringements corrected.*

*As to the future, the activities of the Authority will bring more into focus the problems which will stem from the application of the Agreement and the national legislation emanating from it at the various administrative levels in the EFTA States. This will require new approaches and new techniques as compared with those employed during the implementation phase.*

*Above all, this will require broader and more direct contacts with individuals and enterprises who have rights under the Agreement in order for the Authority to be able to fulfil its role as their «ombudsman». It is my hope that the description in the present report of the Authority's work during its first year of operation may inspire and facilitate such contacts.*

*Brussels, 31 March 1995*

*Knut Almestad  
President of the EFTA Surveillance Authority*



# **1. INTRODUCTION**





The purpose of the EEA Agreement is to create a dynamic and homogeneous economic area consisting of the Member States of the European Community<sup>(1)</sup> and the EFTA States that are parties to the Agreement. During 1994, the latter comprised Austria, Finland, Iceland, Norway, and Sweden.

Implementing the EEA Agreement has been a demanding task for the EFTA States. The purpose of this Annual Report is to give a detailed account of how the task was carried out during 1994, and of how implementation work was supported and monitored by the EFTA Surveillance Authority. The Report also deals with the adaptation by individual economic operators to the EEA competition rules after their introduction in the EFTA States.

Extending the Internal Market of the European Community to the EFTA States, the EEA Agreement provides for free movement of goods, persons, services and capital. It also establishes a system ensuring that competition is not distorted and that the rules thereon, as well as those on public procurement and State aid, are equally respected. Furthermore, the Agreement covers a number of other areas that are relevant to the exercise of the four freedoms, notably social policies, consumer protection, and environmental protection.

The EEA Agreement imposes on the EFTA side the same kind of disciplines as those existing in the Community for ensuring the fulfilment of obligations under the Agreement. In this respect, the EFTA Surveillance Authority applies similar powers and procedures as the European Commission.

This means that the two organizations work together as surveillance bodies under a «two-pillar» system in order to ensure uniform surveillance throughout the EEA. The Commission is competent for cases related to Community Member States, and the Authority is responsible for those dealing with the EFTA States. As regards competition rules applicable to undertakings, the division of competences between the Commission and the Authority is subject to specific provisions laid down in the Agreement.

In the Community, implementation of the EEA Agreement involved extending certain benefits of its Internal Market to the EFTA States. Beyond this, the obligations of the Member States were by and large identical to those imposed on them as Community Members.

For the EFTA States participation in the EEA meant that the entire EEA Agreement, i.e. its Articles and Protocols and the secondary legislation referred to in its Annexes, were to be made part of their internal legal orders. When the Agreement entered into force, the secondary legislation (regulations, decisions, and directives) was composed of about 850 «basic» acts (that had been amended by 650 subsequent acts). During 1994 the *acquis communautaire* grew by another 420 acts, so that the total number of acts to be implemented and notified by the EFTA States during the reporting year was about 1,270.

In its Semi-Annual Report, covering the first six months of 1994, the Authority paid tribute to the very consistent work of the EFTA States to bring about a speedy implementation of the Agreement, and to the positive attitudes with which the Authority's own efforts had been met by national authorities. It was also possible to state that by and large the mechanisms necessary for the functioning of the EEA had been established.

However, the Authority also recalled that imperfections existed, which had already at the end of the reporting period prompted the Authority to initiate formal action in some instances. Moreover, continued conformity assessment of the national implementing measures would most likely lead to further action.

In addition to monitoring the inflow and completeness of notifications by the EFTA States, during the latter half of 1994 the Authority put increasing emphasis on assessing the substantive conformity of the national implementing measures with the provisions of the Agreement. In Chapter 3, some general observations are presented regarding implementation, as well as on the specific fields of public procurement, State aid and monopolies, and competition. Detailed reports on the various sectors are set forth in Chapter 4.

*(1) Since it is the European Community which is party to the EEA Agreement, this term or the term EC is used throughout this report.*



## **2. THE AUTHORITY**



## 2.1 COMPETENCES

A central task of the Authority is to ensure that the EEA Agreement is properly implemented and applied by the EFTA States. This task is commonly referred to as general surveillance. If the Authority suspects that an EFTA State has failed to fulfil its obligations under the Agreement, it may intervene on its own initiative. The Authority may also start action following a complaint from an individual or an economic operator.

Provisions on the formal proceedings that the Authority may initiate are laid down in Article 31 of the Agreement between the EFTA States on the establishment of a Surveillance Authority and a Court of Justice (the Surveillance and Court Agreement). However, the Authority will normally first conduct informal discussions and exchanges of information with representatives of the State concerned, and deficiencies are often rectified as a result of such contacts. Even if the contacts are indeed to be regarded as informal at this stage, the Authority usually conveys its views in writing to the State concerned. Such a communication is called a «pre Article 31 letter».

The proceedings set forth in Article 31 of the Surveillance and Court Agreement are identical to those applied by the European Commission under Article 169 of the EC Treaty. Thus, the Authority opens formal proceedings by sending a «letter of formal notice»<sup>(2)</sup>, where it specifies the suspected infringement, and invites the State to present its observations on the matter. Where, at the end of a stipulated time limit, the Authority still considers that the EFTA State has failed to fulfil its obligations under the EEA Agreement, it delivers a «reasoned opinion». If the State concerned does not comply with the reasoned opinion within the period which has been laid down by the Authority, the matter may be brought before the EFTA Court.

In the fields of public procurement, State aid, and competition, the Authority has extended competences.

As regards public procurement, the Authority is to make sure that central, regional and local authorities as well as utilities in the EFTA States carry out their procurements according to EEA rules. The Authority has the power to act in accordance with the usual proceedings, but may also apply a special procedure before contracts are concluded, if it considers that a clear and manifest infringement has taken place.

The EEA State aid rules aim at avoiding that enterprises or industries receive benefits which would result in a distortion of competition and trade. The Authority assesses planned aid and reviews existing aid. New aid schemes are not to be introduced without having been authorized by the Authority. Where aid has been granted without prior approval, the Authority has the power to instruct the Government concerned to recover from the beneficiaries the whole or part of the amount paid out.

While most of the Authority's tasks are related to the obligations of the EFTA States, the main part of the competition rules are directed towards economic operators. In the interest of consumers and enterprises, these rules prohibit restrictive business practices and the abuse of a dominant market position by an enterprise. The rules further provide for control of concentrations between enterprises. In controlling the compliance with these rules and enforcing them, the Authority has the same powers as the European Commission, including the right to make inspections and to impose fines.

Finally, the EEA Agreement entrusts the Authority with a number of tasks of an administrative character, which within the Community are performed by the Commission. Typical tasks of this kind are the approval of certain measures which EFTA States may take, notably related to technical barriers to trade and veterinary matters. In a number of instances the Authority is assisted by groups of experts from EFTA States. Within this category of tasks there is a division of work between the Authority and the EFTA Standing Committee.

## 2.2 ORGANIZATION

During 1994, the total number of the Authority's staff members amounted to around one hundred. It is the objective of the Authority to compensate for limited human resources with efficient organization, modern data equipment, and concentration on high-priority tasks.

(2) This could also be called an «Article 31 letter», in line with the Community practice of speaking of an «Article 169 letter».





The EFTA Surveillance Authority was led by a College of five Members, one from each EFTA State participating in the EEA during 1994. The College Members are appointed by common accord of the Governments of the EFTA States for a period of four years. A President is appointed by common accord for a period of two years. The College is completely independent of other institutions, as well as of the EFTA States. It takes decisions by majority voting of its Members.

In 1994 the College Members were:

**Knut Almestad** (President)

**Nic Grönvall**

**Björn Friófinnsson**

**Pekka Sällä**

**Heinz Zourek**

The division of responsibilities among College Members is shown at Annex I. As shown in Annex II, the College was assisted by five Directorates which reflect the different surveillance tasks of the organization, and by a Legal Service, an Administration and an Executive Secretariat.



### **3. OVERVIEW OF WORK IN 1994**



## 3.1 GENERAL SURVEILLANCE

### 3.1.1 Background

In 1994, the Authority's work in general surveillance involved two tasks, regarding both of which close co-operation with the EFTA States was a central and indispensable element.

As a first step, the Authority had to obtain from the EFTA States basic information on the implementation of the entire EEA Agreement. During this phase the objective was, as far as possible, to ensure that the information received was complete, and to identify those instances where it was obvious either that no implementing measures at all had been taken at national level, or that only partial implementation had actually taken place.

Thereafter a second step followed, that of starting to assess the conformity of the national implementing measures with the EEA Agreement and the secondary legislation referred to therein.

Bearing in mind the specific characteristics of the EEA Agreement, in particular the high number of directives that are part thereof, it is clear that the Authority had to set priorities. This meant that, while some sectors could be properly covered, others had to be dealt with more superficially, or could even only receive the attention that was absolutely necessary to form a preliminary view on the implementation status in that field.

From the point of view of preparing for the present report reliable statistics on the transposition of directives all this was clearly problematic. Yet the Authority is firmly committed to promoting openness not only with respect to the EFTA States' performance when implementing and applying the EEA Agreement, but also of its own activities when carrying out the tasks it has been entrusted with. It therefore decided, despite the difficulties, to report in detail about its findings.

Consequently, Annex III to this Report is structured much in the same way as the European Commission's corresponding information on transposition of directives on the Community side<sup>(3)</sup>. In principle Annex III reflects the situation at the end of 1994, but, to the extent the Authority received more accurate information before the Report was submitted for printing at the end of March 1995, such information was included in the basic material.

The various values (abbreviations) used in Annex III are specified in the Explanatory Note thereto, and should be kept in mind when one is looking at the Annex itself, and the statistics presented below in this chapter. In fact, the Authority wishes to recall in this context that, since only part of the directives were subjected to in-depth conformity assessment during the reporting year, Annex III and the statistics are likely to give a somewhat more positive picture of the implementation situation in the five EFTA States than is actually warranted.

### 3.1.2 Implementation

Basic provisions of the EEA Agreement which are identical in substance to EC Treaty provisions being directly applicable in the EU States, have in the EFTA States been implemented by differing techniques. The same was true of the Community Regulations that were included in the various annexes of the EEA Agreement. Consequently, upon the entry into force of the EEA Agreement, the Authority invited the EFTA States to explain in writing how the basic provisions and the regulations had actually been implemented.

In respect of directives the legal situation established by the EEA Agreement is quite similar to that existing under the EC Treaty. In other words, while directives must be implemented, or transposed, they leave to the national authorities the choice of form and method to be used. Once implementing measures have been adopted, EFTA States must notify them to the Authority, and also submit to the Authority the texts of the measures.

As of 1 January 1994, each EFTA State was to notify implementation of close to 800 of the basic acts (regulations, decisions and directives) that were at that time part of the EEA Agreement (the «original EEA Agreement»). This meant that the Authority was to be ready to receive altogether some 4,000 notifications, file them, and subsequently start to scrutinize them for completeness. A second wave of about 2,400 noti-

(3) European Commission, *The Community internal market - 1993 report: Annex 2 - Internal market measures adopted by Council or Commission - State of transposition into national law.*

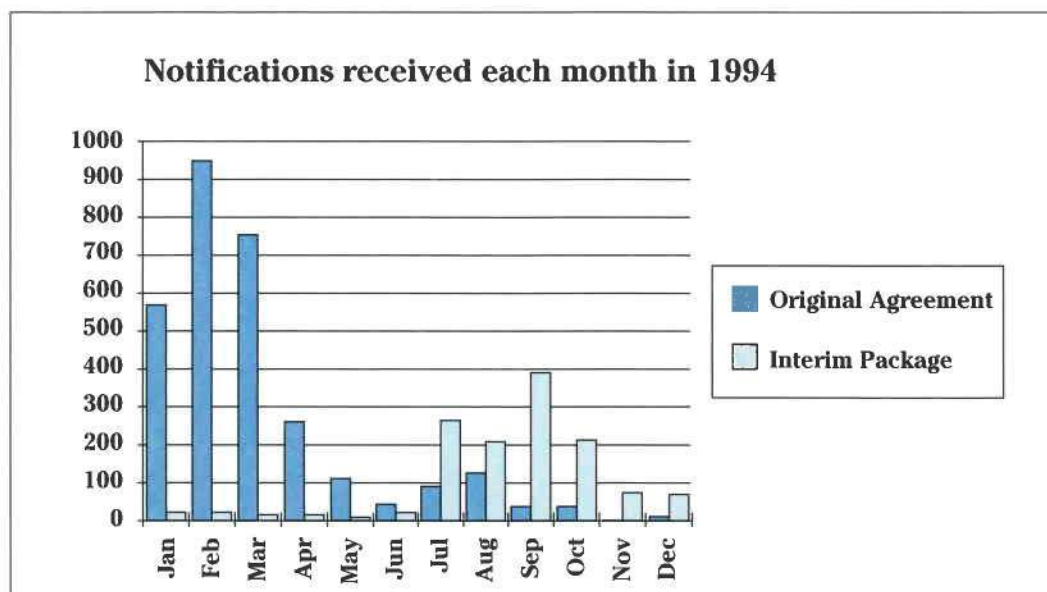


fications was to be handled by the Authority as of 1 July 1994, when the remaining acts of the original EEA Agreement and most of the 420 acts included in the so-called «Interim Package» became applicable. The latter had been made part of the EEA Agreement through an EEA Joint Committee decision in March 1994.

To manage that amount of information, a computerized data-base had been set up, bearing the name «AIDA» («Acquis Implementation Data-Base»). AIDA allows the Authority to have a constant overview of the implementation status of the EEA secondary legislation in the EFTA States. Regarding each act AIDA contains information on whether the act has or has not been notified by the State in question (if it has been notified, the notification date and the date of entry into force of the main implementing measures are registered). With respect to directives, information is entered on whether the notified measures are meant fully to implement the act, and whether the Authority has received full texts of all the national implementing measures, and possibly filled-in tables of correspondence. Finally, in the event that the Authority takes any action with respect to the implementation of an act in an EFTA State, information on such action is also entered.

Of the 800 basic acts that were to be transposed as of 1 January 1994, about 460 were directives. During the spring of 1994, the Authority focused on monitoring the timely submission of the information by the EFTA States with respect to their implementation, and on scrutinizing its completeness.

Upon the entry into force of the EEA Agreement the five EFTA States should have submitted altogether about 2,300 notifications on directives. As illustrated by the graph below, by the end of February 1994 the Authority had received just over half of that number of communications from the capitals.



While fully appreciating the volume and difficulty of the EFTA States' task, the Authority decided to react to this situation. In March 1994 it sent letters of formal notice to Austria, Finland, Iceland and Norway, listing in each letter all the directives regarding which the State in question had failed to provide information necessary to assess the status of its implementation.

During the few months that followed the situation improved considerably, so that by the beginning of June 1994 a very small number of notifications were still outstanding. In these circumstances the Authority decided not to pursue formal action in their regard through these «horizontal» proceedings, but to examine each failure to notify on its merits.

In the latter half of 1994, the Authority applied a similar procedure with regard to about 200 directives included in the EEA Agreement through the Interim Package.

By the end of 1994, the overall notification situation in respect of directives was rather satisfactory. All five EFTA States taken together, the Authority could conclude that national measures ensuring full or partial implementation had been taken in respect of 93% of the directives that were to be transposed during that year. Individually, the States performed as follows: Finland 97%, Sweden 96%, Norway 94%, Austria 89%, and Iceland 88%.



It should be underlined, however, that the above mentioned figures reflect the cases where the Authority had reason to conclude that at least some implementing measures had been adopted. In other words, the figures also include cases of partial implementation and cases where the Authority had not received full texts of the national measures transposing the directive in question. Most importantly, they say nothing about the quality of the national implementing measures.

In the second half of 1994, while continuing to monitor notifications by the five EFTA States, the Authority shifted the emphasis of its work to an examination of the actual conformity of the States' national legislation with the EEA Agreement's basic provisions and Protocols, as well as the implementation by the States of the secondary legislation referred to in the Annexes to the Agreement.

Regarding directives, co-operation between the States and the Authority for preparing conformity assessment had started well ahead of the entry into force of the EEA Agreement.

Thus, in respect of a large number of directives the Authority had prepared so-called «frames» for tables of correspondence - that is tables which list the substantive provisions of the directive - with a view to subsequently inviting the Governments to have them filled in with references to corresponding national provisions and made part of the notification. It was also suggested that the frames be used by national administrations for checking the implementing measures against the provisions of the directive in question. As will be explained later in the Report, filled-in tables were often used by EFTA States when notifying the transposition of the individual directives. In other cases, however, less elaborate methods were used.

Where the Authority found that the notification situation was not yet satisfactory, and in cases of partial implementation or non-implementation, it approached national authorities on an informal basis in order to clear up possible misunderstandings, and to give advice on proper application of the Agreement. A large number of issues were taken up and often resolved at so-called «package meetings» between representatives of the EFTA Surveillance Authority and the national authorities.

In 66 cases that could not be solved on an informal basis, the Authority decided to open formal infringement proceedings against EFTA States by sending letters of formal notice. In five of these cases reasoned opinions were issued. No case was brought to the EFTA Court in 1994.

In addition to investigating cases on its own initiative, the Authority examined 164 complaints received, most of which led either to informal action as described above, or to formal action. Frequently the issues raised by complainants related to those examined by the Authority on its own initiative. While more than half of the complaints (86) concerned Austria, it should be noted that 74 of these dealt with one and the same act, the Directive on the assessment of the effects of certain projects on the environment (85/337/EEC).

The following table sets out the number of cases pursued formally in 1994, within the field of general surveillance (including monopolies). The cases include both those based on complaints, and those started on the Authority's own initiative. The table further sets out the number of complaints within the field of general surveillance (including monopolies).

**Table 1. Infringement cases and complaints by country**

Member State	Letters of formal notice	Reasoned opinions	Complaints
Austria	21	3	86
Finland	15	1	26
Iceland	10	0	3
Norway	7	1	15
Sweden	13	0	34
<b>Total</b>	<b>66</b>	<b>5</b>	<b>164</b>

### **3.2 PUBLIC PROCUREMENT**

The Authority's work in the field of public procurement was mainly concentrated on three major tasks: conformity assessment of the national legislation implementing the public procurement directives, monitoring the application of the procurement legislation in the EFTA States, and information activities.





Most of the national legislation transposing directives was to be analysed in depth by the Authority. Transposition was found satisfactory to a large degree. Deficiencies were discussed in detail with national authorities and in most of the cases where the Authority had considered provisions not to be correctly transposed, national authorities undertook to take corrective action. The process of adopting amendments to the national legislation suggested by the Authority and of taking additional transposing measures where necessary, was not yet finalized at the end of the reporting period.

Both on the basis of its general obligations and powers to enforce correct application of the EEA Agreement and by making use of the so-called corrective mechanism provided for in the Legal Remedies Directives (89/665/EEC, 92/13/EEC) and by Article 1 of Protocol 2 to the Surveillance and Court Agreement, the Authority has the task, beyond transposition control, to intervene in individual contract award procedures when there is suspicion of an infringement of the EEA procurement rules.

Such interventions by the Authority took place in thirteen cases following complaints, and in eight cases on the own initiative of the Authority. In most cases satisfactory solutions could be achieved without formal infringement proceedings having to be opened. Some cases, however, were still pending at the end of the reporting period.

Information activities included, inter alia, a seminar in Brussels which gathered approximately 175 participants from the EFTA States and presentations by Authority staff members at meetings and seminars both in Brussels and in the EFTA States.

### **3.3 STATE AID AND MONOPOLIES**

Upon the entry into force of the EEA Agreement the Authority invited the EFTA States to submit information on their existing State aid schemes. The Authority's workload in this sector turned out to be a remarkable one, since it received information on about 400 such schemes.

During November and December 1994, after a period of intensive assessment work by its services, the Authority took 17 decisions relative to altogether 50 existing aid schemes, requesting the respective EFTA States either to discontinue the schemes or to modify them so as to comply with the State aid rules of the EEA Agreement. As a result, the most important schemes were brought into line with the Agreement. With regard to the rest of the existing aid schemes, once assessed, the Authority found no reason to take further action under the review procedure.

Of the 67 notifications on new State aid submitted during the reporting year, the Authority assessed a total of 46 aid measures planned by the EFTA States. In addition, six aid cases were registered which had been put into effect without the Authority's prior approval. Following the accession of Austria, Finland and Sweden to the European Union, all pending cases regarding new aid in those States were transferred to the European Commission.

As a rule, the new State aid schemes complied with the EEA Agreement. A concrete proof of this is the fact that with respect to none of the new aid cases did the Authority have to resort to the formal investigation proceedings provided for in the Surveillance and Court Agreement. Such proceedings must be opened whenever the Authority finds that aid is not compatible with the functioning of the EEA Agreement, or that it is being misused. Instead, with respect to most of the schemes, the Authority, having assessed them, decided not to raise objections in their regard. Other new aid cases which were dealt with by the Authority were closed either due to inapplicability of the relevant provisions of the EEA Agreement, or following a withdrawal of its notification by the EFTA State concerned.

In the monopolies field the two major issues that the Authority examined on its own initiative during the reporting year were the monopolies on alcoholic beverages in the Nordic EFTA States, and the exclusive rights given in Finland to amusement machine operations.

### **3.4 COMPETITION**

While the Authority's work in the competition field also included the basic task of ensuring implementation of the relevant rules of the EEA Agreement by the EFTA States, handling of individual cases involving economic operators was the principal and predominant activity.

Like in the Community, most competition cases on the EFTA side were based on notifications, submitted by undertakings or associations of undertakings, and requesting either a negative clearance to the effect that there were no grounds for the Authority to intervene, or an individual exemption regarding a restrictive arrangement.





Due to the six months' transition period for companies to notify existing agreements, most of the notifications were received in the summer of 1994. Thus, while during the five first months of the year only four notifications had been submitted, in June 1994 alone the Authority received 58 such notifications. For the whole reporting year the number of notifications was 103.

By the end of 1994 a total of eight complaints had been received.

In addition to dealing with notifications and complaints the Authority initiated ex officio examinations in several cases.

High priority was given to the handling of about 25 cases that seemed from the outset to indicate severe restrictions on competition, making it unlikely that an exemption or negative clearance could be granted.

When carrying out its duties the Authority sent formal requests for information to a large number of companies, launched two on-the-spot investigations, and issued several Statements of Objections as a first formal step towards a possible adverse decision. In some important cases the undertakings involved changed their agreements or practices at an early stage after intervention by the Authority, allowing it to take a favourable view on the matter. In other cases, however, it proved necessary to proceed further.

During the reporting year procedures applicable to so-called co-operation cases were worked out. These are cases which are handled by the European Commission, but where the Authority, in accordance with the relevant provisions of the EEA Agreement, may submit comments, and participate in hearings and in the Commission's Advisory Committee meetings. The aim of the co-operation is to promote homogeneous implementation, application and interpretation of the EEA competition rules. The Commission has corresponding rights concerning the Authority's cases where a Community Member State is affected.

### **3.5 INFORMATION POLICY**

#### ***Information activities***

The benefits of the EEA Agreement and the national legislation implementing it cannot be realized unless the rights and possibilities they offer, and the obligations they impose, are known to those concerned. The Authority has therefore made a particular effort to inform and offer its services to the general public, to national authorities as well as to a number of other target groups (economic operators, interest groups, law firms, educational institutions etc.).

Seminars and conferences were organized by the Authority both in Brussels and in capitals, providing information to parties concerned and creating opportunities to discuss open questions. Examples of such information efforts were a seminar on State aid (attended by some 100 officials), a conference on public procurement (with some 175 participants), and several seminars on issues related to environment, transport, and financial services.

Furthermore, staff members made presentations at numerous other seminars and conferences. In addition, some 150 visitors groups were received at the Authority's premises and provided with information.

Directorates organized a number of package meetings with officials of the respective national authorities in the capitals of the five EFTA States, in order to discuss open issues related mainly to the implementation of the EEA Agreement.

With regard to competition rules applicable to undertakings, the Authority has endeavoured to actively inform economic operators and other interested parties on the content of the EEA competition rules and on their impact on economic activity.

In the field of State aid, the Authority has increased transparency by collecting all of the various notices and guidelines of the European Commission and adopted them as one set of rules in the form of State Aid Guidelines<sup>(4)</sup>. In addition to their official publication, the Guidelines have been published as a special issue of the Common Market Law Reports Vol. 70(1) & (2), 3 and 10 May 1994.

(4) *Procedural and Substantive Rules in the Field of State Aid - Guidelines on the application and interpretation of Articles 61 and 62 of the EEA Agreement and Article 1 of Protocol 3 to the Surveillance and Court Agreement (EFTA Surveillance Authority Decision 4/94/COL of 19 January 1994 - OJ L 231, 3.9.1994).*



An information package was elaborated for the general public, consisting of a folder and a leaflet on the EFTA Surveillance Authority, a guide to the Authority, as well as a leaflet on competition policy. In some cases, such information material was translated by national authorities (and in one case by a private information service) into the relevant EFTA languages.

Furthermore, a film on the role of the Authority within the framework of the EEA Agreement was produced in co-operation with Financial Times Television. It was broadcast on several European television stations and on special networks (e.g. the closed circuit cable television service at the World Economic Forum at Davos). Beta-cam copies including both the version used for television (4 minutes) and a longer version (13 minutes) of the film were sent as background material to relevant television stations. VHS-copies were distributed within the Authority for use in presentations.

Taking into account its limited resources, the Authority generally had to make extensive use of «multipliers» such as the media, national authorities, and interest groups.

Representatives of the media were informed by 40 press releases and memos, three press conferences (e.g. on the occasion of the publication of the Semi-Annual Report) and a number of informal briefings. Press releases were issued mainly regarding decisions taken by the Authority (e.g. the approval of State aid) or when the Authority expressed its view on matters of public interest related to the EEA Agreement (e.g. the exemption from competition rules of the distribution of motor vehicles, or the effect of State aid to airlines). Furthermore, direct contacts with journalists were established and maintained on a routine basis. Press releases were also sent to a large group of addressees other than journalists (esp. law firms) which had expressed their interest in the activities of the Authority.

### ***Openness***

When fulfilling its information tasks, the Authority has to take into account the rules on professional secrecy laid down in the EEA Agreement and the Surveillance and Court Agreement. In order to protect the interests of parties concerned, these rules in certain cases restrict the access to information.

With the exception of these restrictions, the Authority fully recognizes the need of a modern information society for free access to information. It therefore undertook to show a maximum of openness and service-mindedness vis-à-vis the general public. This is reflected in its internal rules for the handling of requests for information. These rules oblige all personnel to render information on the functions, instruments, organization and procedures of the Authority.

## **3.6 CO-OPERATION WITH THE EUROPEAN COMMISSION**

Article 109(2) of the EEA Agreement stipulates that, in order to ensure a uniform surveillance throughout the EEA, the EFTA Surveillance Authority and the European Commission shall co-operate, exchange information and consult each other on surveillance policy issues and individual cases. Article 109(3) obliges the Authority and the Commission to inform each other of complaints received.

In the Authority's view, the co-operation that took place in accordance with these provisions was very constructive and useful. For obvious reasons, the Authority received more than it was able to give, and representatives of the Commission services were as a rule most generous in their support to the Authority's staff. Members of the Authority's College also had exchanges of views on several issues of common concern with Members and high officials of the Commission.

A special rule on co-operation in the competition field is laid down in Article 58 of the Agreement, with detailed provisions in Protocols 23 and 24. Similarly, Article 62 of the Agreement lays down a special rule on co-operation in the field of State aid, and Protocol 27 specifies the various areas in which the Commission and the Authority shall co-operate in order to ensure a uniform application of the State aid rules. In these sectors too, the Authority found working together with the Commission most rewarding, as will be explained in detail in Chapters 4.6 and 4.8 of this Report.



## **4. STATUS IN MAJOR FIELDS**





## **4.1 FREE MOVEMENT OF GOODS**

Basic principles on the free movement of goods are laid down in Articles 8 to 27 of the EEA Agreement. They comprise, inter alia, rules prohibiting various types of barriers to trade, such as customs duties and charges having equivalent effect (Article 10), quantitative restrictions and measures having equivalent effect (Articles 11, 12 and 13), discriminatory taxation of imported goods (Article 14), and discrimination through monopolies of a commercial character (Article 16).

Specific provisions and arrangements are set out in a number of Protocols and Annexes to the Agreement, and they relate to free movement of industrial goods, processed agricultural products, and fish and marine products. Two Annexes contain detailed provisions concerning technical requirements for industrial goods and veterinary and phytosanitary rules. Legislation on product liability, energy and intellectual property is specified in further Annexes.

### **4.1.1 Examination of the implementation of the basic principles**

In order for the Authority to obtain information on the implementation of the basic principles of the EEA Agreement, each EFTA State was requested to provide a general description of the legislative and administrative measures considered to ensure compliance with the relevant provisions of the main part of the Agreement, and of the measures to ensure fulfilment of the obligations under those provisions. The same approach was chosen with regard to the Protocols of the EEA Agreement.

All EFTA States responded to this request, indicating that they had implemented the Agreement and its Protocols, and describing in general terms the legal technique used and the basic structure of the relevant national legislation. This information was complemented with texts of relevant national measures.

#### **4.1.1.1 Customs duties and charges having equivalent effect, and discriminatory taxation**

According to Article 10 of the EEA Agreement, customs duties on imports and exports, and any charges having equivalent effect, are prohibited between the Contracting Parties to the Agreement. This also applies to customs duties of a fiscal nature. Under Article 14, Contracting Parties shall not impose, directly or indirectly, on the products of other Contracting Parties any internal taxation of any kind in excess of that imposed directly or indirectly on similar domestic products. Furthermore, no Contracting Party shall impose on the products of other Contracting Parties any internal taxation of such a nature as to afford indirect protection of other products.

Although rules prohibiting charges with effect equivalent to customs duties had been applied by the EFTA States between themselves and in their trade with the Community for several decades, in the context of the EEA Agreement such rules as set out in Article 10 had to be interpreted in accordance with EC case law. The EFTA States were therefore specifically asked to inform the Authority of all charges on imports and exports presently levied by them, so that the Authority could evaluate their effect in the light of those rules. Once received, the Authority's services examined the information, and in some cases detailed investigations were opened.

Scrutiny of the implementation of Article 14 (prohibiting discriminatory taxation) focused on issues drawn to the Authority's attention through complaints. Where complaints addressed specific measures in one EFTA State, the Authority extended, as far as possible, its investigation to similar measures in all of them.

Based on the information received, the Authority opened own initiative investigations into charges levied in harbours and waterways in all EFTA States.

Following informal consultations, Norway abolished, as of 1 January 1995, the levying of harbour charges on the import and export of goods originating in EEA States.

Sweden and Finland were sent letters of formal notice on failure to apply, in the case of Sweden, Article 10 EEA, and in the case of Finland, Article 14 EEA, to such charges. In their responses both Finland and Sweden challenged the arguments of the Authority but undertook to amend the rules in



question in the future. The cases were still pending by the end of the reporting period, and were therefore transferred to the European Commission.

The Authority also investigated on its own initiative the Austrian charge on imports and exports for foreign trade services («Aussenhandelsförderungsbeitrag»), and issued a letter of formal notice to that State for not complying with Article 10 EEA. In its reply the Austrian Government pointed to a ruling of the administrative high court of November 1994, by which the relevant legislation had been declared inapplicable. As a consequence, the case could be closed. A similar charge on exports from Norway was abolished retroactively as of 1 January 1994.

Taxation of used cars by Norway was the subject of two complaints, prompting the Authority to initiate an examination of the taxation of imported used cars in all EFTA States. This led to letters of formal notice being issued in the matter to Finland, Sweden and Norway. In their replies Finland and Sweden pointed to amendments to their relevant legislation due to enter into force in 1995. With regard to Finland and Sweden, the cases were handed over to the European Commission for possible further action. Concerning Norway the matter is being pursued by the Authority.

The Authority on its own initiative sent a letter of formal notice to Iceland with respect to the levying in that State of an extra tax on imported beer. In its response Iceland undertook to abolish the tax when the new alcohol legislation enters into force in 1995. The Authority, not satisfied with the response, is pursuing the case.

The Authority received a number of complaints concerning taxation and fiscal duties. The commodity tax in Iceland was the subject of two complaints. The Authority was pursuing the cases based on the two complaints at the end of the reporting period, with a view to achieving a swift revision of the system.

The Finnish tax system on beverage cans was analysed after a complaint had been lodged with the Authority. The complainant alleged that a tax levied on beverage cans which were one-way containers was higher than the tax on containers which could be re-used or refilled, and that it thus violated Article 14 of the EEA Agreement. The case was still pending at the end of 1994, and was transferred to the Commission.

The Authority undertook on its own initiative an investigation of a Norwegian tax system for beverage cans. Also in this case charges for one-way containers seem to be higher than charges on re-usable containers. The case was still open at the end of the reporting period.

At the end of 1994, one case based on a complaint against Norway regarding the application of Protocol 3 (on processed agricultural products) was pending.

Cases based on complaints related to the application of the rules of origin in Finland were solved in an informal manner.

#### 4.1.1.2 Quantitative restrictions, and measures having equivalent effect


Articles 11 and 12 of the EEA Agreement prohibit between the Contracting Parties quantitative restrictions on imports and exports, as well as all measures having equivalent effect to such restrictions.

At the same time, Article 13 of the Agreement stipulates that the rules in the two preceding Articles do not preclude prohibitions or restrictions on imports, exports, or goods in transit, justified on the grounds of public morality, public policy, or public security. The same applies to the protection of health and life of humans, animals or plants, the protection of national treasures possessing artistic, historic or archaeological value, or the protection of industrial or commercial property. Such prohibitions or restrictions must not, however, constitute a means of arbitrary discrimination or a disguised restriction on trade between the Contracting Parties. Abundant case law interpreting Articles 30 and 36 of the EC Treaty, which correspond to Articles 11 and 13 EEA, has been established by the EC Court of Justice.

The Authority requested the EFTA States to submit the following information with respect to the implementation of Articles 11 to 13:

- The manner in which compliance of existing national provisions with these rules had been examined;
- modifications which had been introduced in the national legal order as a result of that assessment; as well as
- how new draft national legislation was being checked for conformity with these Articles.





The EFTA States were also invited to explain the extent to which mutual recognition clauses were being used in new technical regulations. The same questions were discussed with national authorities in package meetings in the capitals of the five EFTA States. In addition, correct application of Articles 11 and 13 was pursued under the information procedure on draft technical regulations. As a result, the frequency with which mutual recognition clauses were introduced on the initiative of national authorities in new draft technical regulations increased.

During the reporting period, 16 complaints were received regarding either quantitative restrictions and measures having equivalent effect, or technical trade barriers prohibited by Article 18 of the EEA Agreement. Article 18 obliges the Contracting Parties to ensure that the various arrangements provided for in Annexes I and II EEA, as well as in Protocols 12 and 47 EEA, as they apply to products other than those covered by the Agreement, are not compromised by other technical barriers to trade. In addition to the complaints, several other matters were pursued upon the Authority's own initiative.

As a rule, all cases were first taken up in informal discussions, for example at package meetings in the EFTA capitals, with a view to finding solutions and to enhancing the awareness of the various national authorities of their obligation to take into account the fundamental principles of EEA law at all levels of legislation and administrative practice.

The complaints or own-initiative cases discussed below were amongst those addressed by the Authority during the reporting period (see also the sections on individual product sectors).

Regarding Austria, one complaint concerned requirements for telecommunications terminal equipment. As a result of the Authority's informal intervention, the discriminatory provision in the corresponding Austrian legislation was changed, which enabled the Authority to close the case.

A further complaint alleged that the Austrian authorities required heating oil tanks that had been type-approved in another EEA State to be submitted to an additional type-approval. Following discussions with the relevant authorities, the Authority sent a letter of formal notice to Austria, since it did not seem to be fully ensured that foreign products were accepted on the Austrian market even if they provided for a level of protection equivalent to that laid down by Austrian legislation. In its reply the Austrian Government gave explanations regarding the relevant legal situation in the Austrian Länder. The case was still open at the end of the reporting period, and was therefore transferred to the European Commission for possible further action.

On the basis of a complaint the Authority assessed the Austrian packaging regulation with regard to its implications on the free movement of goods, in particular concerning the treatment of refillable and non-refillable liquid containers. Given the complexity of the matter, at the end of the reporting period further investigation still seemed to be necessary before the Authority would have been in a position to establish whether the Austrian legislation and its application were fully in line with Articles 11 and 13 EEA. The case was, therefore, handed over to the European Commission for possible further examination.

Another complaint alleged that, according to the Austrian law on pharmacies, medical doctors, even in the case that they were granted special permission to sell pharmaceuticals, were obliged to procure such pharmaceuticals from Austrian pharmacies. The possibility of an infringement of Article 11 of the EEA Agreement was taken up by the Authority in an informal letter to the competent Austrian authorities. As a justification for the rule the authorities referred to the exception in Article 13 EEA regarding the protection of public health. At the end of the reporting period the case was still under investigation, and was therefore transferred to the Commission.

As regards Finland, a complaint was lodged with the Authority with respect to charges levied by the customs in the context of the application of an existing decree on maximum content of formaldehyde in textiles. A letter of formal notice was sent to Finland, and the case was pursued after the reporting period. However, after having received satisfactory information from the Finnish government, the Authority was in a position to close the case.

One complaint was received concerning the licensing system in Norway for showing and distributing films and videos, the registration and labelling of videos, the registration of importers, producers and dealers of video tapes and the municipal licensing requirements for the distribution of video tapes. The matter was taken up in consultations with the Norwegian authorities and is being pursued further.



Two other complaints concerned the implementation in Norway of the Low Voltage Directive (73/23/EEC). The Norwegian legislation was subsequently changed to conform with the Directive, and the Authority closed the case.

The requirements for telecommunications terminal equipment in Norway were the subject of a further complaint. A discriminatory provision in the corresponding Norwegian legislation was changed as a result of the Authority's intervention, and the case was closed.

Based on a complaint against Sweden the Authority examined whether it was contrary to Articles 11 and 13 EEA to restrict to pharmacies the sale of veterinary medicinal products. As an infringement could not be established, the case was closed.

A further complaint concerned the importation into Sweden of oil tanks mounted on motor vehicles which had been legally marketed and used in other EEA countries. It was alleged that double inner walls were required. The Swedish authorities denied that there was such a specific requirement, but referred to safety considerations to be observed in order to avoid two liquids of different kind to mix. The time available before the end of the reporting period did not allow for a detailed examination of the Swedish measures. The case was, therefore, handed over to the European Commission for possible further action.

According to Swedish law it is necessary to obtain permission to fill or import PET-bottles. Furthermore, the law obliges any manufacturer who uses PET-bottles to label them with information on how they are integrated into a recycling system. One complaint regarding that issue alleged that such requirements infringed Article 11 of the EEA Agreement. Upon examination of the matter, the Authority sent a letter of formal notice to Sweden. In its reply the competent Swedish authorities argued that the labelling requirement was necessary for the protection of both consumers and the environment. At the end of the reporting period it was still under investigation whether the Swedish measures complied with the criteria of proportionality and of minimizing trade hindrance. The case was, therefore, transferred to the European Commission for possible further action.

A case based on a complaint against Sweden concerning advertising of products which could attract the attention of children under twelve years was closed, as no infringement could be established.

The Authority received a complaint concerning a provision in the Swedish alcohol legislation with the effect that the sale of beer containing more than 5,6 % by volume of alcohol was prohibited. The case was closed after Sweden had abolished the restrictions in the legislation. A similar case against Norway is still under investigation by the Authority.

A complaint against Sweden was also received in relation to practices of the alcohol retail monopoly. The allegation was that products had been rejected by the monopoly because of the nature of the package. A letter of formal notice on the matter was issued to Sweden. The case was still open at the end of the reporting period, and was transferred to the European Commission for possible further investigation. Changes were introduced in the Swedish alcohol legislation as of 1 January 1995 which the Swedish authorities deemed to address the concerns of the complainant.

In the field of food additives a complaint referring to Article 11 EEA was lodged against Sweden concerning non-authorization of import of certain products containing such additives. Sweden argued in its reply to the Authority's letter of formal notice that the measure was justified under Article 13 EEA for public health reasons. At the end of the reporting period the case was still pending, and was transferred to the European Commission for possible further investigation.

#### **4.1.2. Secondary legislation relating to free movement of goods**

##### **4.1.2.1 Technical regulations, standards and conformity assessment**

###### ***General***

Acts harmonizing national legislation on technical regulations, standards and conformity assessment are referred to in Annex II EEA. Protocol 47 on the elimination of technical barriers to trade in wine contains further such acts. The total number of the acts is 550 (two of which had become obsolete by the end of the reporting period).





Certain acts define conditions under which specific types of products must be ensured free movement while national requirements may be maintained in parallel with the legislation implementing those acts, provided that such requirements do not affect the free movement within the limits of the scope of the acts in question, and that the requirements are in line with the other rules laid down by the Agreement, such as its Articles 11 and 13. This is referred to as «optional harmonization».

Other acts require that a common level of protection of health, safety or of other protection objectives has to be implemented by all Parties to the Agreement, i.e. such acts provide for «total harmonization».

Some of the acts define detailed technical specifications while others lay down essential requirements of a general nature, complemented, inter alia, by rules for the assessment of the conformity of products with those requirements.

By the end of 1994, all EFTA States had notified the Authority of measures taken or planned for the national transposition of the acts referred to in Annex II to the original Agreement. Such notifications were also received for most of the acts contained in the Interim Package. In certain cases national acts were still in Parliament, or were still to be finalized or approved at other levels. In such cases the Authority requested full information on the contents of the draft legislative measures, and a time schedule for their adoption. In most cases where transposition of acts referred to in the original Agreement, or of major parts thereof, was not likely to be finalized by the end of 1994, letters of formal notice were addressed to the States concerned.

A table on the transposition of the individual directives is to be found at Annex III.

The main impression of the Authority is that free movement of goods has been generally assured by the EFTA States in spite of certain imperfections in the transposition and even in cases where the adoption of national transposing legislation was delayed. This is indicated by the fact that the Authority has had relatively few complaints from economic operators on grounds of insufficient transposition of harmonization directives as compared to complaints related to national requirements which were not subject to European harmonization.

The following description of the implementation status by sectors put particular emphasis on problems which have been examined. It should not be interpreted to mean that trade has been significantly impeded in all described cases.

### ***Implementation by sectors***

Annex II to the EEA Agreement lists, in different Chapters, specific directives on technical regulations, standards and conformity assessment (testing and certification). The implementation is discussed below.

### ***Motor vehicles, and agricultural and forestry tractors***

The Authority received notification of implementation or information on the implementation status from all the EFTA States on all 64 Directives in the field of motor vehicles to be applied or notified in 1994. Most of the provisions of the Directives had been implemented.

As regards the 54 Directives concerning motor vehicles having at least four wheels, Sweden had not, according to the notification received, implemented the Directive relating to fuel consumption, as amended by the Interim Package (80/1268/EEC, 93/116/EEC). Finland indicated that, taking into account the existing legislation, specific national implementation measures were not necessary for transposing an amendment (93/81/EEC) to the type-approval Directive (70/156/EEC), concerning end of series vehicles, contained in the Interim Package.

Regarding two and three wheeled motor vehicles, some further measures were still foreseen to be taken by Austria at the end of the reporting period concerning the type-approval Directive for such vehicles (92/61/EEC). Furthermore, no evidence of implementation had been provided by Sweden at the end of the reporting period with regard to most of the Directives on two and three-wheeled motor vehicles referred to in the Interim Package.

During 1994, derogations were applicable to all EFTA States with regard to requirements for exhaust emission and sound levels (70/157/EEC, 70/220/EEC, 72/306/EEC, 88/77/EEC, 78/1015/EEC as amended).

The Authority received two complaints concerning importation of motor vehicles approved within the EEA to Austria and Sweden respectively. At the end of the reporting period both cases were still under examination. The derogations from the European motor vehicle legislation applicable during 1994 referred to





above had to be taken into account. Questions of procedures and related costs were discussed with the Austrian authorities who showed preparedness to address any obstacles that showed undue burdens being placed on self importers. At the end of the reporting period the Authority forwarded comments on a draft amendment to the relevant Austrian legislation which had been transmitted under the information procedure on draft technical regulations. Both cases were handed over to the Commission.

In the field of agricultural and forestry tractors the Agreement refers to the framework Directive on type-approval (74/150/EEC) and to 22 specific Directives. Information was received from all EFTA States on the implementation status of all Directives. In general, most of the provisions of the Directives had been implemented, but Norway had not provided proof of full transposition with regard to nine Directives. In pre Article 31 letters the Authority requested information on the intended content of the implementing measures and the timetable for their adoption.

Sweden indicated that no specific measures to implement the Directive on emissions from diesel engines for tractors (77/537/EEC) were necessary since Swedish legislation did not contain requirements for exhaust emissions of tractors.

### ***Household appliances***

The original EEA Agreement comprised three Directives relative to household appliances, one of them being the framework Directive on labelling of the energy consumption of household appliances (79/530/EEC). This Directive was replaced by a new framework Directive (92/75/EEC) when the Interim Package entered into force on 1 July 1994.

All EFTA States but Norway notified implementation of the framework Directive. Norway provided a draft of the envisaged implementation measures regarding the framework Directive. The Authority is closely monitoring the transposition in Norway.

As to the Directive (79/531/EEC) applying the framework Directive on labelling of household appliances to electric ovens, only Sweden presented a notification on its transposition. Austria, Finland and Iceland did not indicate specific measures for the transposition of this Directive. However, free movement seemed to be guaranteed under existing legislation. The adoption of the framework Directive referred to above being pending in Norway, no indication was available to the Authority at the end of the reporting period that the Directive concerning electrical ovens had been transposed.

Besides Sweden, only Iceland had by the end of the year notified implementation of the Directive on noise emitted by household appliances (86/594/EEC).

### ***Gas appliances***


The transposition of the Directive relating to gas appliances (90/396/EEC) did not seem to cause major difficulties as regards substance. However, in every State except Finland the entry into force of the national implementing measures was delayed. While the other four States had notified their national provisions implementing the Directive, as well as of the amendment in the Interim Package, in Iceland transposition had not been completed by the end of 1994. The Authority is monitoring the situation in that State, and will take appropriate action where necessary.

### ***Construction products and related equipment***

The implementation of the Construction Products Directive (89/106/EEC) was not carried out satisfactorily in three EFTA States. In Finland the implementation was still incomplete at the end of 1994. In four Austrian Länder the implementation was also still under preparation, and the Authority had not received information on whether further implementation measures were warranted on the federal level. Letters of formal notice on incomplete implementation were sent to Finland and Austria. From Norway the Authority received a draft of implementing measures. By the end of the reporting period, however, no indication had been given that such measures had been adopted. The Authority is, therefore, monitoring transposition of the Directive in Norway.

Directives relating to heat generators (78/170/EEC) and hot water boilers (92/42/EEC) were mostly implemented in national building regulations. Notifications of implementation measures in Austria were received only concerning three of the nine Austrian Länder. The national regulations notified by Finland and Sweden as implementing the Directives did not seem to cover all relevant provisions





of those acts. Therefore, letters of formal notice on improper implementation of acts concerning heat generators or hot water boilers were sent to Austria, Finland and Sweden. Contrary to what could be assumed from information received during 1994, these Directives had not yet been implemented in Norway by the end of the reporting period. The Authority is pursuing the matter.

### ***Pressure vessels***

In all five States the implementation of the Directive relating to simple pressure vessels (87/404/EEC) was completed at the end of the reporting period, although in some States the entry into force of the national provisions was delayed for a few months. The Directives on gas cylinders (76/767/EEC, 84/525/EEC, 84/526/EEC, 84/527/EEC) and aerosol dispensers (75/324/EEC) were implemented in Finland in a timely manner. Norway introduced into existing national legislation a clause stating that products conforming to international agreements are accepted. In Iceland implementation was not completed by the end of 1994.

A letter of formal notice was sent to Sweden for non-implementation of four Directives relating to gas cylinders, and of one Directive relating to aerosol dispensers. Austria did not provide proof of implementation of three of the Directives relating to gas cylinders by the end of 1994, prompting the Authority to issue a letter of formal notice.

### ***Textiles***

Finland and Sweden notified a timely implementation of all four textile Directives. In Iceland the implementation measures entered into force in the spring of 1994. Austria notified implementation of the two Directives relating to textile names (71/307/EEC, 75/36/EEC), but had not implemented the two Directives relating to quantitative analysis methods of binary and ternary textile fibre mixtures (72/276/EEC, 73/44/EEC) by the end of the year. Norway had partly implemented the main Directive relating to textile names. The implementation did, however, not cover all amendments to the Directive. The other textile Directives were still to be implemented by Norway. The Commission was informed of the situation in Austria. With regard to Norway, the matter is being pursued by the Authority.

### ***Toys***

Finland and Sweden notified a timely implementation of the safety of toys Directive (88/378/EEC). In Austria and Iceland implementation was delayed, but the implementing measures entered into force during 1994. Norway had a transition period until 1 January 1995.

### ***Explosives for civil use***

The Directive on the placing on the market and supervision of explosives for civil use (93/15/EEC) was incorporated into the EEA Agreement by the Interim Package. Certain provisions, inter alia, concerning the supervision of transfers, had to be complied with from 1 July 1994. However, a specific adaptation regarding the control of transfers allowed the EFTA States to carry out frontier controls in accordance with national rules in a non-discriminatory manner. The measures implementing the rest of the provisions of the Directive were to be adopted and published nationally by 1 July 1994, and applied as of 1 January 1995.

Finland was the only EFTA State to provide the Authority with a complete notification. Iceland did not give any information on the implementation of the Directive, prompting the Authority to send a letter of formal notice. Austria, Norway, and Sweden submitted notifications of relevant national legislation already in place, and on further measures foreseen to be taken, but did not provide the Authority with a notification from which it might have been concluded that the Directive had been fully implemented.

### ***Measuring instruments***

When controlling implementation in this field, the Authority focused on the new approach Directive on non-automatic weighing instruments (90/384/EEC). Concerning the other 26 Directives of traditional approach, including the framework Directive (71/316/EEC), it was primarily the implementation of the free movement clauses which was examined. In addition, matters related to the implementation and application of the conformity assessment procedures provided by the Directives were checked.



In several notifications received by the Authority EFTA States stated that either no national legislation within the scope of various optional Directives existed, or that the national legislation did not contain any provisions which would hinder the trade of instruments which were in conformity with specific directives. In many cases it was argued by the EFTA States that the existing legislation guaranteed free movement of the instruments. For those reasons, specific new measures to implement the Directives had not been taken in such cases.

In Norway measures implementing the acts on measuring instruments were in certain cases restricted to the introduction of clauses on acceptance of products complying with international agreements. As regards the Directive on non-automatic weighing instruments the Authority did not receive, by the end of the reporting period final, proof of implementation. With regard to two Directives concerning pre-packaging (75/106/EEC, 76/211/EEC) and the Directive relating to the measuring of the standard mass per storage volume of grain (71/347/EEC) some further implementation measures were envisaged to be taken in Norway.

In a number of cases Sweden indicated that due to lack of mandatory national requirements, specific transposition measures were not warranted. Finland did not provide the Authority with evidence that the Directive on alcohol tables (76/766/EEC) had been implemented by the end of 1994.

### ***Medical devices***

With regard to the Directive on active implantable medical devices (90/385/EEC) Finland, Iceland and Sweden notified implementation which entered into force during the first half of 1994. A notification by Norway indicated that implementing measures would enter into force in January 1995. However, interim measures providing for partial implementation were in place in Norway already during 1994. In Austria implementation was still pending at the end of 1994, though some elements of the Directive had been notified as having been transposed already.

The Directive on medical devices (93/42/EEC) had been incorporated into the Agreement through the Interim Package, and was to be adopted and published nationally by the beginning of July 1994 and applied from the beginning of 1995. The Authority received notifications of implementation from all the States except Austria.

As regards the implementation of the old Directive relating to electro-medical equipment (84/539/EEC), Sweden referred to the related joint declaration in the Agreement and informed the Authority that due regard had been paid to the proposed Directive on medical devices when the Agreement was implemented.

### ***Machinery***

Secondary legislation on lifting and mechanical handling appliances (73/361/EEC, 84/528/EEC, 84/529/EEC, 86/663/EEC), construction plant and equipment (79/113/EEC, 84/532/EEC, 84/533/EEC, 84/534/EEC, 84/535/EEC, 84/536/EEC, 84/537/EEC, 86/295/EEC, 86/296/EEC, 86/662/EEC) and machinery (89/392/EEC, 93/44/EEC) include both traditional and new approach Directives relating to a wide range of different machines.

A detailed assessment of the conformity of the notified national measures was carried out with respect to these Directives. In general the quality of the transposition of these Directives was satisfactory. In some cases, however, the entry into force of national provisions was delayed by some months. In Iceland, the national regulations implementing the Directives on machinery safety, roll-over protective structures and falling object protective structures were not yet in force at the end of 1994. In Norway, the implementation of the Directive on electrically operated lifts was still incomplete at the end of 1994. The Authority is monitoring developments in the two States and will take formal action where necessary.

Moreover, in some cases correction of some elements of national transposition, e.g. concerning the rights and obligations of importers, seemed warranted.

### ***Personal protective equipment***

Only Finland and Sweden notified the Directives relating to personal protective equipment (89/686/EEC, 93/95/EEC) as implemented as of 1 January 1994. In Austria the national provisions





implementing the Directive entered into force in July, and in Iceland and Norway in August 1994. In most cases the two amending Directives included in the Interim Package were implemented together with the main Directive. In Finland, a new revised version of the national regulations also implementing the amending Directives was adopted and issued in July 1994. The conformity of notified national measures with the Directive was evaluated with a positive result.

### ***Foodstuffs***

Information on the status of implementation of most of the over 70 binding acts on foodstuffs referred to in the EEA Agreement had been submitted by the end of 1994, showing that most of the provisions had been transposed.

By the end of the reporting period, Austria had not provided the Authority with information indicating that legally binding measures had been adopted relating, in particular, to Directives on food colours, honey, preserved milk, coffee and chicory extracts, fruit jams, lactoproteins, maximum levels of pesticide residuals in cereals and foodstuffs of animal origin, extraction solvents, flavourings, nutritional labelling, N-nitrosamine, and to analytical methods. A letter of formal notice was sent to Austria. However, according to the notifications received, the substantive content of the Directives on honey and fruit juice had been incorporated into national non-binding guidelines as an interim measure pending legally binding transposition.

By the same time limit, Iceland had not transmitted to the Authority information on the adoption of transposing measures concerning the Directives on cocoa and chocolate, sugars, honey, preserved milk, fruit jams, mineral water, lactoproteins, N-nitrosamine, and on analytical methods. The matter is being pursued by the Authority.

Legislation adopted by Finland originally did not provide for the mandatory application of the provisions of the vertical Directives for products placed on its national market. After a letter of formal notice had been sent to Finland, legislation was introduced terminating that transitional arrangement as of the end of 1995.

Sweden introduced a delay until the end of 1996 for rendering the vertical Directives mandatory on its national market. The same delay is applied nationally for attributing a mandatory status to the provisions of the labelling Directive (79/112/EEC), although a transition period of only one year was foreseen in the Agreement. The Authority sent a letter of formal notice to Sweden regarding this matter.

Norway introduced, with regard to mandatory application for the placing on the national market of the products concerned, non-conforming transition periods terminating at the end of 1995 when transposing the vertical Directives, and the legislation on labelling, materials and articles in contact with food, extraction solvents, food additives, marks identifying the lot, food for particular nutritional uses, and nutritional labelling.

Examination of the actual conformity of transposing legislation focused on certain key directives, in particular concerning labelling (79/112/EEC), food control (89/397/EEC) and food additives (89/107/EEC). The result of the checking was to a large extent satisfactory. Following informal contacts with the Authority, transposing measures were corrected in Iceland and Finland with regard to labelling requirements for foodstuffs.

With a view to the application of the foodstuffs legislation, the EFTA States were linked through the Authority to the Food Products Network of the Community System for the Rapid Exchange of Information.

### ***Tobacco***

There are three Directives on tobacco in the EEA Agreement. While Finland, Norway and Sweden notified implementation of these Directives, the relevant national measures contained transition periods of 12, 18 and 24 months, respectively, for making them mandatory for the placing of products on the national market. Iceland also submitted notifications on all Directives, but certain provisions on the labelling of tobacco products had actually not been implemented by the end of 1994. Since no national legislation transposing the Directives had been adopted in Austria by the end of 1994, a letter of formal notice was sent to that State.





### ***Cosmetics***

Most Directives on cosmetic products had been notified as implemented in the EFTA States by the end of 1994. However, the Authority had not received information to the effect that Austria had transposed five acts concerning analytical methods. The Commission was informed accordingly after Austria's accession to the Union.

### ***Spirit Drinks and Trade in Wine***

By the end of the reporting period, implementing measures had been taken by all the EFTA States with regard to the acts on spirit drinks, and with regard to Protocol 47 on the elimination of technical barriers to trade in wine.

### ***Chemicals and fertilizers***

The Authority received information from all EFTA States on the implementation status in the fields of chemicals and fertilizers. The main focus was on a detailed conformity check of several key Directives on substances, preparations, detergents, and restrictions and bans on certain chemicals.

On the basis of the information available by the end of the reporting period, the Authority concluded that Norway had not fully implemented the Directive on fastenings of preparations and the Directive on sulphur in fuels. Austria had a few outstanding items on restrictions of some chemicals. These shortcomings were taken up in discussions with the relevant administrations of those States. Iceland had not implemented Directives 87/18/EEC and 88/320/EEC on good laboratory practice (GLP), Directive 91/442/EEC on fastenings on preparations contained in the Interim Package, part of Directive 76/769/EEC on restrictions of chemicals, and all acts on fertilizers. This resulted in three letters of formal notice being sent to that State.

All EFTA States had a derogation for some of the chemicals covered by Directive 76/769/EEC on restrictions on marketing and use of certain chemicals, but they made use of the derogations in different ways.

Austria had implemented the major part of the Directive, but transposition of certain parts concerning, for example, substances used in jokes and hoaxes and for ornamental lamps and garments had not been notified by the end of the reporting period. Iceland notified some implementation measures of this Directive, but according to information available at the end of the year, transposition of several provisions was still outstanding.

The definition of «harmful» used in the Swedish transposing legislation was wider than in the Directive, and covered at least in theory a wider range of restricted and banned products. In that regard, as well as concerning the application of the limit value for PCB/PCT, assurances were given by the Swedish authorities that, in practice, EEA legislation would be followed. The provisions on mercury had not yet been transposed in their entirety in Sweden at the end of the 1994. Legislation concerning certain chemicals, e.g. arsenic and organostannic compounds had not been implemented. It was noted that Sweden had been granted an additional transition period on that subject in the Accession Treaty to the European Union.

Proper application of the Directives on principles of good laboratory practice (GLP) and on the inspection and verification of their application for tests on chemical substances was greatly facilitated by the participation of the EFTA States and the Authority in GLP meetings convened by the European Commission.

Finland implemented Directive 67/548/EEC on substances and Directive 88/379/EEC on preparations as of the entry into force of the Agreement and was among the first EEA States to implement the latest amendments to these Directives. Certain additional transition periods were introduced in the Finnish implementing legislation with a view to avoiding that the delay in transposition of relevant Directives in certain Community Member States would hinder importers of chemicals to Finland from fulfilling their obligations, as might have been the case if the rules had not been applied concurrently within the whole EEA. The other EFTA States had a transition period up to the beginning of 1995.

All the Directives on fertilizers (76/116/EEC etc.) including those contained in the Interim Package (93/1/EEC and 93/69/EEC) were implemented by all EFTA States except Iceland. As stated above, a letter of formal notice on the subject was addressed to Iceland.



The notification procedure for new chemicals was run in co-operation with the European Commission, Finland being the only EFTA State participating fully during 1994.

### ***Electrical material and telecommunications***

Notifications of the adoption of national implementing measures were received regarding all acts in this field by the end of the reporting period, with three exceptions.

As regards the Directive on electrical ex-equipment for use in mines susceptible to fire-damp (82/130/EEC), Finland indicated that transposition of the Directive was not necessary due to absence of relevant mines.

By the end of the reporting period information had not been received from Austria on the final adoption of measures transposing the Directive referred to above, and the Authority sent a letter of formal notice regarding the failure to that State.

Sweden did not notify any specific measures for the implementation of the Directive on electro-medical equipment, which was partly repealed by the Directive on medical devices but which continued to be applicable as far as equipment for the treatment of animals is concerned. Sweden referred to the relevant Joint Declaration to the EEA Agreement (see also the sub-section on medical devices).

Detailed conformity assessment was undertaken regarding the transposition of the Directives on low voltage equipment (LVD) (73/23/EEC), electromagnetic compatibility (89/336/EEC), and telecommunications terminal equipment (91/263/EEC). To a very large degree the transposition had been well undertaken, and very few variations were detected. The Authority worked together with the national administrations with a view to effectively harmonizing the measures to be implemented. In the case of Norway a major review of the legislation concerning electrical goods was carried out. Norway indicated that new legislation resulting from the review would enter into force in early 1995.

### ***Medicinal products***

The Authority was notified by all EFTA States of implementing measures regarding the fourteen Directives referred to in the original EEA Agreement. Austria, Iceland and Norway indicated that some additional measures needed to be adopted for full implementation to be achieved. Drafts of the outstanding measures were requested, and partly received, by the Authority.

Notification of the adoption of the national measures concerning two acts contained in the Interim Package, namely the Directive on narcotic drugs and on the modification of the Annex to that Directive, had not been received from Austria and Norway at the end of the reporting period.

The transposition of four major Directives on proprietary medicinal products and veterinary medicinal products was assessed in detail. Letters of formal notice for incomplete transposition were sent to Iceland regarding Directive 65/65/EEC, and to Norway and Sweden with respect to that Directive and Directive 75/319/EEC.

In a further letter of formal notice the Authority addressed the matter that Norwegian legislation required foreign holders of a marketing authorization for medicinal products to be represented by an authorized agent with a domicile in Norway.

### ***General Product Safety Directive***

This Directive has been implemented by all EFTA States except Iceland, where the relevant national measures had not yet been adopted by the Parliament by the end of 1994. Discussions took place between the Authority and national experts on its interpretation. Some matters concerning details of aligning the existing legislation in Finland, Norway and Sweden to the Directive, for example with regard to definitions, remained open at the end of the reporting period without formal action having been taken by the Authority.





#### 4.1.2.2 Operation of certain procedures

##### ***Information procedure on draft technical regulations***

Directive 83/189/EEC, as adapted for the purposes of the EEA Agreement, introduces a procedure by which the EFTA States notify the Authority of draft technical regulations. Upon notification, a three months' standstill period is triggered during which the Authority as well as the European Commission may comment on the notified draft regulation. Notifications are examined so as to establish whether they contain provisions which create barriers to trade, for example, by referring to national standards or national testing bodies, or by requiring exclusively national certificates. The Authority also assesses whether or not the draft national measures conflict with existing European legislation.

During the reporting period, the Authority's remarks on such notifications were mainly requests for introduction of mutual recognition clauses, allowing the placing on the market of products complying with other Contracting Parties' requirements that provide for a level of protection equivalent to that intended to be guaranteed by the notified draft regulation.

In the framework of the information procedure for draft technical regulations the Authority received 61 notifications from the EFTA States. In 30 cases the Authority delivered comments. In addition to the 20 notifications in the telecommunications field, the comments concerned, inter alia, draft regulations on fire safety measures on ships, technical contractual terms for bridge building, as well as requirements for assembly tents, for domestic road transport of dangerous goods, and for petroleum motor fuel.

Sweden informed the Authority that it had introduced, as requested, a mutual recognition clause into the final text of a regulation on measures to prevent water pollution from ships.

Due to the time needed by national authorities to proceed from a notified draft to the final adoption of the measures concerned, in most cases the Authority had not received the final text of the regulation in question by the end of the reporting period.

The Authority received 389 notifications from the Community side, which in four cases led to a single co-ordinated comment presented to the European Commission.

##### ***Product Safety***

In the field of product safety for consumers the applicable legislation changed considerably with the entry into force within the EEA, on 1 July 1994, of the General Product Safety Directive (92/59/EEC). The Directive applies to cases not covered by the safeguard or notification procedures contained in more specific Directives. It provides for the continued application of the so-called emergency procedure operated earlier under the Decision on Rapid Exchange of Information on Dangers Arising from the Use of Consumer Products (RAPEX), and introduces a general safeguard procedure for cases where no other procedure can be used.

The Authority received 19 notifications under the RAPEX Decision. In the framework of the non-food area network, two notifications were presented by EFTA States and six from the EC side. Within the food-network two notifications by EFTA States and nine from the Community side were transmitted.

Under the emergency procedure in the non-food field the Authority received seven notifications by EFTA States and seven further notifications by Community Member States. Within the food-network there were no notifications by EFTA States, but five notifications were received from Community Member States.

Sweden triggered the general safeguard procedure in three cases addressing risks caused by soothers and soother holders for babies. In three further cases France notified measures concerning ping-pong tables, child bed frames and football goal frames. The United Kingdom transmitted two notifications invoking the general safeguard procedure concerning food products.

##### ***Safeguard measures with regard to unsafe products in accordance with specific Directives***

In 16 cases the Authority was notified by EFTA States of safeguard measures taken concerning unsafe products falling under specific Directives referred to in Annex II of the Agreement. Of these, 15 related to the implementation of the Low Voltage Directive and one to the Toys Directive.



### ***Notification of conformity assessment bodies***

All new approach Directives and some of the traditional Directives require involvement of notified bodies as third parties in conformity assessment of products and production. Such bodies may be testing laboratories, inspection bodies, certification bodies or approval bodies. They are notified by EEA States as being competent for carrying out specified conformity assessment tasks with regard to specific products or families of products, as set out in the relevant Directives. By the end of 1994, altogether 454 notifications concerning conformity assessment bodies in relation to different acts referred to in Annex II to the EEA Agreement had been received by the Authority.

## **4.1.3 Other rules**

### **4.1.3.1 Product liability**

Annex III of the EEA Agreement refers to the Directive on Product Liability for Defective Products (85/374/EEC). It deals with protection of the consumer against defective products and makes the producer liable for damage caused by a defect in his product.

All EFTA States notified the national measures implementing this Directive, and submitted texts of those measures. No complaints were received.

### **4.1.3.2 Energy**

Annex IV on energy refers to nine acts, many of them concerning the Community policy of transparency and competition in the production and sale of energy. Two Directives concern the transit of electricity and gas respectively, through transmission grids.

The EFTA States notified implementation of most of the Directives. However, in Austria some competence in the energy field lies with the Länder, and the Authority could not conclude on the basis of the information received by the end of the reporting period that the implementation of the Directives concerning the use of oil in power stations (75/405/EEC) and the use of substitute fuel components in petrol (85/536/EEC) had been completed. Finland, Iceland, Norway and Sweden stated that existing national legislation did not hinder the free movement of petrol and that, therefore, specific measures for implementing the last mentioned Directives were not necessary.

Iceland considered transposition of the Directive on transit of electricity through grids (90/547/EEC) as being irrelevant, due to the absence of interconnection of the national transmission grids with those of the other EEA States.

The Directive on transit of gas (91/296/EEC) is considered irrelevant for Iceland and Norway taking into account that no gas transmission grids which would be covered by the Directive are listed in the Agreement. Finland stated that specific implementation measures concerning that Directive were not necessary since the Finnish natural gas grid was not connected with any country of the EEA. In Sweden the gas companies concerned signed undertakings to fulfil the obligations laid down in the Directive on transit of gas.

Several acts concerning transparency of consumer prices and imports and exports of oil (76/491/EEC and 1893/79/EEC as amended) require that EFTA States send reports to the Authority at regular intervals. The implications of these provisions were discussed at two meetings of an ad hoc group of energy experts from the EFTA States, the EFTA Secretariat, the European Commission, and the Authority. Routines were established between the Authority and the Commission for handling these reports.

### **4.1.3.3 Intellectual property**

Protocol 28 and Annex XVII to the EEA Agreement contain specific provisions and arrangements concerning intellectual, industrial and commercial property. According to Article 65(2) of the Agreement, those provisions and arrangements apply to all products and services, unless otherwise specified.





Annex XVII, as amended by the Interim Package, refers to eleven binding acts (four Directives, six Decisions, and one Regulation) of which seven (including extensions) concern the legal protection of semi-conductors (87/54/EEC, 90/510/EEC, 90/511/EEC, 93/16/EEC, 94/4/EEC, 90/541/EEC and 93/217/EEC), the other acts relating to trade marks (89/104/EEC), protection of computer programmes (91/250/EEC), medicinal products (92/1786/EEC), and rental-rights, lending-rights and copyright (92/100/EEC). In addition, two non-binding acts are referred to, namely the Council Resolution on increased protection of copyright and neighbouring rights (92/C 138/01), and the Commission Communication on intellectual property rights and standardization (COM (92) 445 final).

For Finland, Iceland, Norway and Sweden a transition period was applicable until 1 January 1995 for implementing the Directive on rental rights, lending rights and certain rights related to copyright (92/100/EEC). Regarding the remaining acts on intellectual property rights which had to be implemented during 1994, Austria, Finland, Sweden and Norway notified national implementing measures to the Authority. Iceland notified measures adopted to implement five acts, whereas notifications showing transposition of the five remaining acts on semi-conductor products had not been received by the end of 1994.

#### **4.1.4 Veterinary and phytosanitary matters**

##### **4.1.4.1 Legislation**

Annex I to the EEA Agreement on veterinary and phytosanitary matters refers to 316 legal acts, excluding amendments. Of these acts 197 are in the veterinary chapter, 28 deal with feeding stuffs, while 91 concern plant health.

The acts on veterinary issues lay down provisions on trade with animals, meat and meat products, and measures to be undertaken in case of outbreak of certain contagious animal diseases. The Authority is given the task to decide on derogations from some of the provisions, inter alia, on granting an EFTA State the possibility to apply stricter rules on import of animals, the so-called «additional guarantees».

The acts on marketing of feeding stuffs aim primarily at preventing harm to animals, humans and the environment which might be caused by feeding stuffs, and at ensuring that buyers of feeding stuffs are sufficiently informed about their content.

The acts on phytosanitary matters concern the quality and marketing of seeds.

While the acts on feeding stuffs and phytosanitary matters had to be complied with by the EFTA States by the entry into force of the EEA Agreement, the veterinary acts became applicable only as of 1 July 1994.

Only 29 veterinary acts apply to Iceland. Transition periods specific to the individual EFTA States are applicable with regard to several acts in Annex I. Two acts became obsolete during the reporting period.

##### **4.1.4.2 Notifications and conformity assessment**

Notifications were received from all EFTA States in respect of all applicable secondary legislation. However, the notifications did not in all cases contain information that would have allowed the Authority to conclude that the acts concerned had been transposed. The percentage of acts that had been transposed into national legislation can be indicated approximately as follows:

<b>Chapter of Annex I</b>	<b>Percentage of the acts transposed</b>
I. Veterinary issues	~ 80
II. Feedingstuffs	~ 97
III. Seeds	~ 70

Detailed conformity assessment was initiated in respect of the Directive on the health conditions for the production and placing on the market of fishery products (91/493/EEC), and of the Directive on veterinary rules for the disposal and processing of animal waste, for its placing on the market and for the prevention of pathogens in feeding stuffs of animal or fish origin (90/667/EEC). Six investigations were opened on the initiative of the Authority concerning non-implementation, incorrect implementation and incorrect enforcement, and letters of formal notice were sent to all five EFTA States. In Finland transposition seemed to be nearly complete, so that only one specific element missing in the transposition of one act was addressed in the letter referred to above.

No complaints were received by the Authority in respect of these acts.



#### 4.1.4.3 Application of the Agreement

##### ***Additional guarantees and recognition of disease free status***

A total of 56 applications regarding additional guarantees, approval of control programmes, approval of simplified surveillance, and approval of disease free status were received from the EFTA States. Of the applications, 26 led to formal decisions by the Authority. The applications were handled in close co-operation with the EFTA States and the European Commission.

##### ***Plans regarding animal health***

During the autumn of 1994, the Authority approved national plans for approval of poultry establishments in Finland, Norway and Sweden.

Under seven disease control Directives, the EFTA States were to submit contingency plans for approval by the Authority. By the end of the reporting period Finland, Norway and Sweden had fulfilled their obligations with regard to the contingency plan for foot and mouth disease, and Norway and Sweden for classical swine fever. The Authority urged the EFTA States concerned to present the five outstanding plans as required in the Agreement.

##### ***Safeguard consultations***

During the whole of 1994, on the basis of a safeguard measure taken by the Community in 1993, the export of Norwegian salmon to the European Community had been limited to eviscerated salmon, while exports of live salmon and round salmon had been prohibited. With a view to lifting the export restrictions, Norway requested consultations under the relevant provisions of Annex I to the EEA Agreement. The primary aim was to establish the criteria for approving a region free from infectious salmon anaemia (ISA), and to develop the implementing legislation concerning the approved ISA free zone. By the end of the reporting period, consultations were still continuing between the Commission, Norway, and the Authority.

##### ***Inspections in the public health area***

Starting in July 1994, the Authority carried out formal inspections in the public health area. A total of 17 plants were inspected as described below.

Establishments listed according to type:

4 plants approved for slaughter only  
2 plants approved for cutting only  
9 plants approved both for slaughter and cutting (integrated plants)  
2 plants approved for storing of meat (cold store) only.

Type of approval of the establishments:

7 of the plants were EC approved plants.  
8 of the plants were approved by national authorities.  
2 of the plants were approved according to Directive 91/498.

Slaughterhouses listed after species slaughtered:

Cattle	Sheep	Pigs	Cattle and pigs	Cattle, sheep, pigs
11	5	13	11	5

Cutting plants listed after species processed:

Cattle	Sheep	Pigs	Cattle and pigs	Cattle, sheep, pigs
12	3	12	12	3

In order to maintain homogeneity and common interpretation of the legislation, the Authority worked in close co-operation with the EFTA States and the Commission.





### ***Plans relating to the examination for residues***

In accordance with the relevant acts EFTA States submitted to the Authority for approval, their plans for 1994 regarding examination of residues of hormones and other substances. These plans were investigated in working group meetings and were approved after the EFTA States had provided the Authority with additional information and had introduced certain amendments into the plans which had been found necessary by the Authority. During the reporting period the plans for 1995 were examined by the Authority in co-operation with the European Commission.

### ***Notification of approval for fresh meat and food processing establishments***

All EFTA States submitted to the Authority lists of food processing establishments approved by their competent national authorities, including establishments dealing with fresh meat, poultry, meat processing, wild game, farmed game, egg and milk producing (in total 54 lists). The Authority transmitted the lists to the European Commission for further distribution to the Community Member States.

The Authority received similar information from the Commission regarding food processing establishments in the Community. The EFTA States were informed accordingly.

### ***Notification of approval of small scale fresh meat establishments, and of establishments granted temporary derogation***

The lists of these establishments were received from all EFTA States concerned. The notifications were examined, and the Authority granted temporary and limited derogations from Community health rules.

### ***Exchange of notifications with the Commission on disease related matters***

During the reporting period, the Authority continuously exchanged notifications with the Commission on measures taken against EEA States and third countries with regard to safeguards and outbreaks of serious diseases.

## **4.2 FREE MOVEMENT OF CAPITAL**

### **4.2.1 Relevant legislation**

Article 40 of the EEA Agreement stipulates that, within the framework of the provisions of the Agreement, there shall be no restrictions between the Contracting Parties on the movement of capital belonging to persons resident in EC Member States or EFTA States, and no discrimination based on the nationality or on the place of residence of the parties or on the place where such capital is invested. Annex XII to the Agreement refers to the only act implementing Article 40, the Capital Movements Directive (88/361/EEC).

The liberalization obligations laid down in Article 40 and the Directive imply, firstly, that restrictions have to be eliminated on capital transfers and underlying transactions. Secondly, there must be a possibility for a resident in one EEA State to have access to the financial market of another EEA State and all the financial products available there. Thirdly, EEA States must eliminate the discriminatory measures in domestic rules. The same applies to restrictions imposed on certain types of investments, in so far as they are not strictly necessary for prudential reasons.

In Annex XII to the EEA Agreement, a number of transition periods, varying from two to five years, are granted to the EFTA States. They concern certain short term capital movements (Iceland), the acquisition of domestic securities and admission of such securities to a foreign capital market (Norway), direct investment on national territory (Finland, Iceland, Norway and Sweden), investments in real estate on national territory (Austria, Finland, Iceland and Norway) and investments in the sector of inland waterways (Austria).



#### **4.2.2 Implementation**

By early March 1994, all EFTA States had notified implementation of the Directive. As the Authority did not receive all the texts of the relevant Norwegian national measures, that State was invited to complement its notification.

As a rule EFTA States used the transition periods accorded in Annex XII. However, Finland did not make use of the possibility to limit investments in real estate except for the right to limit the purchase of secondary residences.

Annex XII also allows Iceland to continue to apply existing restrictions on foreign ownership and/or ownership by non-residents in the sectors of fisheries and fish processing, and Norway to do so in respect of ownership of fishing vessels by non-nationals. The restrictions may not concern indirect engagement in these activities. National authorities have the right to oblige companies which have been wholly or partly acquired by those to whom the restrictions apply to divest themselves of the above-mentioned investments.

During 1994 the Authority received three complaints relating to the capital movements sector.

Two complaints concerned the right of a national of another EEA State to acquire real estate in the Finnish Åland Islands. Having requested additional information and carried out preliminary investigations, the Authority held informal consultations with representatives of the Finnish Government. The cases were open at the end of 1994, and were handed over to the European Commission in accordance with the Accession Treaty.

The third complaint also related to acquisition of real estate, and the State concerned was Austria. The complaint was received in December 1994, and a preliminary examination of the issue was therefore only completed in January 1995. Since after 31 December 1994 the Authority's competence to initiate formal proceedings against Austria was limited (ceasing entirely as of 31 March 1995), and since the preliminary examination suggested that there was no ground for pursuing the case, it was closed. Nevertheless, the Authority unofficially informed the European Commission about the matter.

### **4.3 FREEDOM TO PROVIDE SERVICES**

According to Article 36 of the EEA Agreement, within the framework of the provisions of the Agreement, there shall be no restrictions on the freedom to provide services within the territory of the Contracting Parties in respect of nationals of EC Member States and EFTA States who are established in an EC Member State or an EFTA State other than the State of the person for whom the services are intended.

This basic provision establishing the freedom to provide services across borders applies to all services except transport. The relevant secondary legislation emanating from this provision is referred to in Annexes IX to XI to the Agreement which lay down specific provisions for three sectors: financial services, audio-visual services and telecommunication services.

Transport services are regulated in Articles 47 to 52 EEA and the relevant specific provisions for all modes of transport are referred to in Annex XIII to the Agreement.

#### **4.3.1 Financial services**

##### **4.3.1.1 Relevant legislation**

The purpose of the specific provisions laid down in respect of the financial services sector is to harmonize the essential national provisions so as to permit the opening up of a single market for banking and insurance services, as well as for securities transactions and investment services. The provisions are laid down in the 30 Directives referred to in the original Annex IX to the EEA Agreement, and in the six Directives included in the Interim Package that the EEA Joint Committee adopted in March 1994.

The single financial market that is being created within the EEA is based on three basic principles. Firstly, in order for a financial institution to start business, it needs an authorization by the competent supervisory authorities of the State where it has its head office - the so-called «home Member State». Secondly, the authorization, granted in that State under its national law harmonized in accor-





dance with the above-mentioned Directives, must be mutually recognized in all other EEA States. This is the so-called «single licence» principle. Thirdly, as a rule, the financial institution is supervised by the competent authorities of the home Member State - this, again, is the «home country control» principle.

#### 4.3.1.2 Notifications

##### ***Banking***

By virtue of the ten banking Directives in the original Annex XI to the EEA Agreement, the principles of single licence and home country control were applicable in full within the EEA as of the beginning of 1994. The Interim Package introduced two further Directives, of which one replaced an earlier Directive.

With the exception of the cases where transition periods applied, notifications on the implementation of the Directives of the original Annex IX had been received from all EFTA States by late February 1994. As to the two new Directives, all EFTA States had notified them by early December, except where transition periods applied. However, Austria and Sweden informed the Authority that, to make complete the implementation of the new Banking Consolidated Supervision Directive (92/30/EEC), additional measures were necessary. In both States, those measures would be adopted during the first half of 1995.

As to transition periods in this sector, while Iceland had been granted such a period up to 1 January 1995 for the implementation of the First Banking Directive (77/780/EEC) and the Second Banking Directive (89/646/EEC), it did not use that option, but notified the Directives as implemented from the beginning of 1994. The same transition period was accorded to three EFTA States for the transposition of the Banking Accounts Directive (86/635/EEC) and the Large Exposures Directive (92/121/EEC), but only Norway and Sweden finally used this possibility, whereas Austria notified the first Directive as transposed and the second as partially transposed.

##### ***Insurance***

In the insurance sector, the internal market for financial services was not yet fully achieved at the beginning of 1994, as the thirteen Directives that were part of the original Annex IX only laid the ground for an intermediary system.

In early March 1994, four EFTA States had submitted notifications in respect of all of these Directives. By that time, notifications on only seven Directives had been received from Iceland, but by early May that State had notified compliance with all thirteen.

When submitting the relevant notification, Finland informed the Authority that not all implementing measures had yet been taken with respect to the Tourist Assistance Directive (84/641/EEC), and that they would be adopted in conjunction with the measures implementing the so-called «third generation» insurance Directives discussed below. For its part, Norway informed the Authority that further measures were envisaged for the full implementation of the First Non-life Insurance Directive (73/239/EEC) and the First Life Assurance Directive (79/267/EEC). These measures would be adopted in conjunction with the transposition of the third-generation Directives.

The principles of single licence and home country control were introduced in the insurance sector through the third-generation Directives - that is, the Third Non-life Insurance Directive (92/49/EEC) and the Third Life Assurance Directive (92/96/EEC) - which, together with the Insurance Accounts Directive (91/674/EEC), were adopted by the EEA Joint Committee in March 1994 as part of the Interim Package.

All three Directives were to be complied with by 1 July 1994. However, Norway and Sweden had a transition period up to 1 January 1995 to transpose the Insurance Accounts Directive. Due to a disagreement between the Community and Finland regarding the scope of application of the Third Non-life Insurance Directive, the application of that act to Finland was excluded in the Interim Package.

By the end of 1994, only Austria had submitted complete notifications in respect of the three new insurance Directives. While Iceland's notification of both of the third-generation insurance Directives was complete, this was not the case in respect of the Insurance Accounts Directive, and that State was invited to amend the notification.

Norway had also notified both of the third-generation insurance Directives. However, it informed the Authority that not all measures necessary for full compliance had yet been taken. The basic acts of parliament had been passed, but certain administrative regulations remained to be issued. Finland





(to which the Third Non-life Insurance Directive was not applicable) had notified neither the Third Life Assurance Directive nor the Insurance Accounts Directive, and Sweden had notified neither of the third-generation Directives.

As a consequence, Finland, Norway and Sweden received a pre Article 31 letter from the Authority inviting them to indicate by what time the measures necessary to comply with the relevant Directives would be adopted. On the basis of the answers, the Authority concluded that in all three States such measures would be in place during the first half of 1995.

### ***Stock exchange and securities***

The stock exchange and securities Directives referred to in the original Annex IX to the EEA Agreement lay down basic rules on the production and accurate presentation of information necessary for the market participants. At the beginning of 1994, no Community rules on single licence or home country control regarding this sector had yet been introduced into the Agreement.

By early February 1994, implementation of the seven Directives of this sector had been notified by all EFTA States. However, Finland had informed the Authority that, for full compliance, certain administrative provisions were still to be taken in respect of six Directives. After informal consultations with that State the Authority concluded that the announced delays were excessive, and a letter of formal notice was sent to Finland for only partially notifying implementation of those Directives. Complete notifications on three of them were subsequently received, and the Authority closed the respective cases on partial notification. The cases still open, relating to the Listing Particulars Directive (80/390/EEC), the Disclosure Directive (82/121/EEC), and the UCITS Directive (85/611/EEC), were handed over to the European Commission in accordance with the Accession Treaty.

In this sector, Austria had been granted a one year's transition period for the implementation of one Directive, and Iceland the same time for the transposition of six Directives. However, neither State made use of any of these options.

The two Directives introducing the single licence and home Member State control in the securities transactions field, the Investment Services Directive (93/22/EEC) and the Capital Adequacy Directive (93/6/EEC), were part of the Interim Package adopted by the EEA Joint Committee in March 1994. However, both Directives are only to be complied with by the EEA States by the end of June 1995, and no notifications in their regard were thus received from any EFTA State during 1994.

#### **4.3.1.3 Conformity assessment**

When assessing the conformity of the national implementing measures in the financial services sector the Authority applied, as a general rule, the policy of informal discussions and communications with the EFTA States, instead of initiating formal proceedings.

To facilitate detailed reporting by the EFTA States of the national implementing measures, «frames» for tables of correspondence were prepared on all the principal Directives referred to in the original Annex XII to the EEA Agreement and in the Interim Package. Those frames were then sent to the Governments of the EFTA States. Regarding most of the tables, the States were requested to have them filled in and submitted to the Authority in accordance with a specific time-table. Guidelines on how to actually fill in the tables were dispatched to the States together with the first frames. A document entitled «Twelve Good Reasons for the EFTA States to Fill In Tables of Correspondence» was also prepared to explain the advantages the EFTA States would derive from the exercise.

The EFTA States' overall response to the Authority's request was most encouraging. By the end of 1994 Iceland had submitted 22 tables, Austria and Norway 20, Finland 18, and Sweden 15. The numbers for Norway and Sweden might have been higher but for the transition periods that they had been granted for the implementation of some of the Directives regarding which tables were received from the other States.

As a next step, ten Directives on which filled-in tables of correspondence had been received from all five States were subjected to a detailed preliminary conformity assessment. The plan was to carry out very thorough examination, as the transposition of each and every provision of those ten Directives was to be assessed - with the exception of provisions that were clearly not meant to be implemented.

The Directives involved in this project were the First and Second Banking Directives, the Money Laundering Directive (91/308/EEC), the UCITS Directive, the Co-insurance Directive (78/473/EEC), the





Reinsurance Directive (64/225/EEC), the First Motor Insurance Directive (72/166/EEC), the Second Motor Insurance Directive (84/5/EEC), the Third Motor Insurance Directive (90/232/EEC), and the Insurance Intermediaries Directive (77/92/EEC).

After the preliminary assessment, informal letters were sent to each EFTA State, putting forward questions which, in the Authority's view, needed further clarification. The questions were subsequently discussed in package meetings that were organized in the capitals of the five EFTA States. Once the results of those discussions had been analysed, the Authority sent to each Government a new informal letter (a pre Article 31 letter), indicating the provisions where further national measures were deemed necessary to ensure full compliance with the Directives in question. In the letters, the Governments of the five States were invited to indicate whether and by which date they intended to adopt the proposed amendments, or, if there was no intention to do so, to indicate the reasons thereof.

The EFTA States' response to this informal assessment process was very positive. The discussions during the package meetings were business like and constructive, and the Authority's action was seen not so much as an «implementation control» offensive, but rather as a useful «implementation support» effort. This was also confirmed by the fact that, with respect to the overwhelming majority of the points raised by the Authority in the pre Article 31 letters, national administrations indicated in their replies that corresponding amendments to national legislation would be examined and proposed.

As regards Austria, Finland, and Sweden, when handing over to the European Commission the files concerning the Directives now in question, the Authority pointed out the cases where the respective State had indicated that amending measures would be taken, and, respectively, where the State did not agree that new measures were necessary. The Authority will closely monitor developments in Iceland and Norway, and take further action where appropriate.

As mentioned above, one of the Directives subjected to detailed conformity assessment was the Insurance Intermediaries Directive. While that Directive does not harmonize the conditions relative to the provision of insurance intermediary services, those conditions are the subject of the European Commission's Insurance Intermediaries Recommendation (92/48/EEC), made part of the EEA Agreement through the Interim Package.

The Authority therefore decided to carry out in co-operation with the EFTA States a special study on national measures existing in those States in the insurance intermediaries sector. In that context Finland was invited to delete from its legislation the requirement that an insurance broker offering services in that State must have a permanent establishment there. Finland agreed, and subsequently submitted to the Authority a Government bill for the new legislation through which the requirement will be abolished.

In 1994, the Authority made only one exception in the financial services sector to the above described policy of preferring informal action when inviting EFTA States to amend their legislation to ensure full compliance. That exception related to the implementation of the Money Laundering Directive in Austria, where that State was sent a letter of formal notice for improper implementation of the Directive, notably with respect to the Directive's provisions regarding identification of customers when opening an account or savings accounts.

During the first half of 1995 the Authority will prepare and issue, with respect to most of the acts that were subjected to the above described conformity assessment and examination, reports and other documentation regarding the national implementing measures.

#### **4.3.2 Audio-visual services**

Specific provisions on the freedom to provide audio-visual services are contained in one Directive referred to in Annex X to the EEA Agreement, the so-called «Television Without Frontiers» Directive (89/552/EEC). The main objectives of the Directive are to provide for minimum rules relative to the freedom of transmission in television broadcasting, to lay down mandatory requirements for the protection of consumers (especially minors), to set rules for advertisements and the sponsoring of programmes, as well as to promote a majority proportion of European productions in the television programmes of all Member States.

By March 1994, all the EFTA States had notified the implementation of the Directive in their national legal order. In some cases the Authority invited States to complement the information. The national





implementing measures were then discussed at package meetings held in the five capitals in May and June. On the basis of these discussions it could be concluded that the Directive has been transposed in all the EFTA States.

As regards the application of the Directive, in two instances Norway used the option provided for in the Directive to notify its intention to suspend the re-transmission of certain broadcasts - specifically, the retransmission in the Norwegian cable networks of pornographic films broadcast by Swedish television channels. At the end of 1994 these cases were still open, pending the results of the consultations the Authority had initiated between the parties concerned.

#### **4.3.3 Telecommunication services**

The original Annex XI to the EEA Agreement referred to five Directives concerning telecommunication services.

Three of them concern the reservation of specific frequency bands for mobile telecommunications, paging and cordless telecommunication. The other two Directives are the so-called Services Directive (90/388/EEC) on competition in the markets for telecommunications services, and the ONP (Open Network Provision) Framework Directive (90/387/EEC). The objective of the latter is to pave the way for the liberalisation of the telecommunications services market through the successive introduction of harmonized sets of rules on ONP conditions for different types of telecommunication services - notably conditions on open and efficient access to, and use of, public telecommunications networks and services in compliance with the basic principles of objective criteria, transparency and non-discrimination.

In addition to these Directives, in Article 10(2) of Protocol 31 to the EEA Agreement, dealing with civil protection, the EFTA States undertook to introduce the Single European Emergency Call Number (-112-) in accordance with the relevant Council Decision on the matter (91/396/EEC).

As of 1 July 1994, two more acts were included in Annex XI, namely the Directive on the application of open network provisions for leased lines (ONP Leased Lines Directive) (92/44/EEC) and the Council Decision on the introduction of a Standard International Telephone Access Code (-00-) (92/264/EEC).

During 1994, notifications were submitted by the EFTA States on all the Directives referred to in the original Annex XI, except by Iceland with respect to the ONP Leased Lines Directive, that State having been granted a transition period up to the end of 1994 for the implementation of the Directive. It should be mentioned that Iceland did not use most of the one year transition period it had been granted with respect to the ONP Framework Directive, as it notified the Directive as implemented in March 1994. Legal texts of the national implementing measures relative to these Directives were, with some minor exceptions, also submitted during 1994.

Under the Council Decision on the Single European Emergency Call Number, EEA States are to introduce the number by the end of 1996 at the latest. The notifications received by the Authority indicate that the number has been in use in Finland since the beginning of 1993, in Austria as of September of that year, and in Norway as of mid-1994. In Iceland the number will be introduced by October 1995 and in Sweden by June 1996.

Assessment of the conformity of the national measures implementing the frequency Directives allowed the Authority to conclude that they had been properly transposed.

The obligations following from the Services Directive and from the ONP Framework Directive seem to have been or are under way to be met by the EFTA States. The notified national telecommunication legislation reflects directly or indirectly the provisions requested by the acts concerned.

By the end of 1994 Austria had not completed the transposition of the Services Directive and the ONP Framework Directive, but provided information on the timetable set for the gradual introduction of rules aimed at implementing the said acts (to be fulfilled through detailed access conditions to come into force on 1 April 1995).

The Authority has also identified a case (Finland) where the national authorities have admitted that exclusive rights following from the licensing system still apply. The concept of «exclusive rights» plays an important role both in the context of the Services Directive and in that of the ONP Framework Directive and the situation will have to be observed by the Commission, when the





concept has been revised and given a definite interpretation. It is for the time being an open question whether operators who have not been granted exclusive rights shall be bound to fulfil the obligations following from the ONP Framework Directive.

The Authority's conformity assessment of the rather complex ONP Leased Lines Directive was not completed by the end of 1994, as additional information requested by the Authority had not been submitted by the EFTA States. National regulatory authorities had been asked to provide information on how leasing conditions were published, and on the cost accounting systems that were applied by operators obliged to offer leased lines.

#### 4.3.4 Transport

It should be noted that Articles 47 to 52 of the EEA Agreement only apply to transport by rail, road and inland waterway. By contrast, Annex XIII to the Agreement refers to specific provisions on all modes of transport. Both Regulations and Directives are used for harmonization in the field of transport.

##### 4.3.4.1 Rail, road and inland waterway transport

Two main principles laid down in the EEA Agreement should be cited here. Firstly, under Article 48(1), the provisions of an EEA State, relative to transport by rail, road and inland waterway and not covered by Annex XIII, shall not be made less favourable in their direct or indirect effect on carriers of other States as compared with carriers which are registered in that State. Secondly, Article 50(1) stipulates that, in the case of transport within the territory of the Contracting Parties, there shall be no discrimination which takes the form of carriers charging different rates and imposing different conditions for the carriage of the same goods over the same transport links on grounds of the country of origin or of destination of the goods in question.

The original Annex XIII to the EEA Agreement refers to 49 binding acts and four non-binding acts on transport by road, rail or inland waterway. The acts are listed in four chapters. The first chapter, on inland transport, contains sub-chapters on general issues, infrastructure, competition, State aid, frontier facilitation and combined transport. The second chapter on road transport deals with technical harmonization and safety, taxation, social harmonization, access to the market (goods and passengers), rates (goods), admission to the occupation (goods and passengers), and hired vehicles (goods). The third chapter is concerned with transport by rail, notably with structural policy and rates. Transport by inland waterway is the subject matter of the fourth chapter, with sub-chapters on access to the market, structural policy, access to the occupation, and technical harmonization.

Major adaptations had to be made in Annex XIII with respect to the acts affected by the Agreement between the European Community and Austria on the transport of goods by road and rail (market access, weights and dimensions of vehicles and border controls). The legislation on inland waterway transport will only be applicable as from the day of mutual market access, which should be accomplished at the latest by 1 January 1996.

Thirty new acts on inland transport were brought into Annex XIII as part of the Interim Package, and were to be complied with by 1 July 1994. Part of them replaced a number of acts in the original Annex XIII, introducing new liberalised rules on market access in goods and passenger transport, combined transport and the development of railways. Three more acts were added to the EEA Agreement by decisions of the EEA Joint Committee.

The secondary legislation on transport by road, rail or inland waterway contains a number of Regulations which as such must be made part of the legal order of the EFTA States.

Iceland and Norway were not in a position to implement all Regulations in due time. In these States, no legal basis had been established enabling the Government or a Minister to adopt administrative provisions to implement the acts dealing with the various modes of inland transport, including transport by rail and inland waterway. Therefore several regulations were not implemented.

In these circumstances the Authority in December 1994 decided to send letters of formal notice to Iceland and Norway for failure to notify implementation of Regulations dealing with the following issues relative to inland transport: granting of State aid; elimination of frontier controls; fixing of rates for the carriage of goods by road between EEA States; amendments, as a result of German unification, of certain acts relating to inland transport; and action by the Member States concerning the obligations inherent in the concept of a public service in transport by rail road and inland waterway. In addition, a letter of





formal notice was sent to Norway for failure to implement Regulation 281/71 which composes a list of waterways of maritime character according to Regulation 1108/70, and to Iceland for failure to notify implementation of the Regulation on the abolition of discrimination in transport rates and conditions.

The Authority received notifications on implementation of all Directives except in some cases regarding Iceland. The matter was taken up with the Icelandic authorities. By the end of the year, however, no new information had been received.

As regards conformity assessment, the Authority in a first phase put emphasis on correct implementation of the legislation on social and technical harmonization and on admission to the occupations, this being a prerequisite for the establishment of market access. In a second phase, the legislation on market access and on railways was assessed.

The approach chosen by the Authority was to try to achieve a satisfying implementation situation in this very diversified field through close contacts with the competent services of the EFTA States. In cases of improper implementation the issues were discussed on an informal basis. This led in several cases to new legislation and amendments in existing legislation. However, in some cases there are still discrepancies between the Directives and the national acts.

One complaint was filed against Finland regarding allegedly discriminatory fares in railway transport of passengers. Upon request, the Authority received comments from the Finnish authorities regarding the issue. The case was handed over to the European Commission.

Another complaint concerning Norway dealt with the recognition of drivers' licences, and an alleged infringement of the principle of free movement of workers. Norway, too, answered a request for additional information, and the case will be further examined by the Authority.

Austria had, according to information the Authority received from that State, severe problems with the obligation to eliminate border controls for heavy vehicles. For that reason a so-called pre-31 letter reminding the State of its obligations was sent.

Several requests were received by the Authority concerning the proper interpretation of the EEA acts, and in-depth consultations were held with some EFTA States on the application of certain acts, for example on the provisions on public services.

#### 4.3.4.2 Civil Aviation

Annex XIII to the EEA-Agreement referred originally to seven binding acts and two non-binding acts in the area of civil aviation. However, four of these acts were superseded or to a major extent amended by eight new acts on civil aviation which entered into force on 1 July 1994 as part of the Interim Package. In total the binding acts comprise 10 Regulations, three Directives and one Decision.

The new acts include the so-called «third aviation package», which is the most important element in the creation of a single market in civil aviation. It consists of three Regulations dealing with licensing of air carriers (EEC/2407/92), market access for air carriers to intra-EEA air routes (EEC/2408/92) and fares and rates for air services (EEC/2409/92).

The package is supplemented by Regulations on slot allocation at airports (EEC/95/93), a code of conduct for computer reservation systems (2299/89 amended by 3089/93), rules for denied boarding compensation to passengers (EEC/295/91), and harmonization of technical requirements (EEC/3922/91). In addition, three Directives deal with mutual acceptance of licences for cockpit personnel (91/670/EEC), co-operation on air accident investigations (80/1266/EEC), and the definition and use of technical specifications for the procurement of air-traffic-management equipment and systems (93/65/EEC). The last-mentioned Directive is, however, not applicable to Iceland.

All EFTA States notified national measures implementing the Directives. No formal proceedings were initiated, but in a few cases the originally notified legislation was amended or supplemented following the advice of the Authority. For example, the original Regulation concerning a code of conduct for computer reservation systems had been only partly implemented in Norway and Sweden. When implementing the amended Regulation Norway corrected this defect. Sweden did the same, but the amendment was delayed until the beginning of 1995.

Under the Regulation on licensing of air carriers and the Directive on mutual acceptance of licences for cockpit personnel EFTA States are obliged to consult the Authority before adopting laws, regulations or administrative provisions implementing the acts. These measures shall then be communica-





ted to the Authority when adopted. In the case of the Norwegian draft provisions on mutual acceptance of licences for cockpit personnel comments from the Authority led to amendments in the final version. Although all EFTA States notified their primary legislation concerning these acts, notification of the secondary administrative provisions was at the end of 1994 only partly finalized by Iceland, Norway and Sweden, and not at all by Austria.

On the basis of the notifications and additional information given, it may be concluded that in most cases in the civil aviation sector the EFTA States have adopted national measures in compliance with the Agreement. With the exception of Sweden's partial and delayed implementation of the regulations concerning a code of conduct for computer reservation systems, all ten Regulations were in their entirety made part of the legal order of the EFTA States by the end of 1994, while, as mentioned above, some secondary provisions were not yet wholly notified by all EFTA States. This was particularly the case in respect of Austria.

As regards the new Directive on the definition and use of technical specifications for the procurement of air-traffic-management equipment and systems, Sweden notified an already existing law on public procurement as the relevant national implementing measure. The Authority found, however, that the law only partly implemented the Directive. This finding was not disputed by the Swedish authorities, and the Authority was informed that specific legislation was being prepared to implement the Directive in full.

One complaint was filed against Finland regarding allegedly discriminatory air fares. The Authority received comments from the Finnish authorities, and the case was handed over to the European Commission in accordance with the Accession Treaty.

In addition to package meetings in most EFTA States, an aviation seminar was arranged in co-operation with the European Commission to address questions from the EFTA States regarding the implementation, application and interpretation of the main Regulations of the third aviation package. The Authority also assisted EFTA States in the publication, in the Official Journal of the European Community, of granted or revoked air carrier licences.

#### 4.3.4.3 Maritime transport

Annex XIII to the EEA Agreement refers to seven acts in the field of Maritime transport. Two of them are Directives related to safety and the others are Regulations referring to competition, market access and the transfer of ships from one register to another.

Two further acts were added through the Interim Package, and were to be complied with as of 1 July 1994. They deal with market access and safety issues. During the latter part of 1994 two more Directives, one related to inspection of ships and one to minimum training of seafarers, and one Regulation aiming at reducing port costs for ships with segregated ballast tanks, were adopted by the EEA Joint Committee as part of Annex XIII. However, they all enter into force only at the beginning of 1996.

Complete notifications were received from all States for all acts.

As the shipping countries among the EFTA States in general have a high standard and as the shipping policies are market oriented, transposition of EEA legislation required little more than adaptation of, and supplements to, existing legislation. However, questions were put by the Authority to Austria about the extent to which certain acts were relevant to that State. No reply was received during 1994.

Community action and legislation are increasingly focusing on safety, safe operation and environmental questions. The maritime industry is also increasingly influenced by general and horizontal Community legislation in such fields as labour law, social security, mutual recognition of professional qualifications (certificates) etc., and the Authority answered a number of inquiries regarding their relevance and consequences for shipping activities.

#### 4.3.5 Non-harmonized sectors

Discrimination based on nationality may also occur in the non-harmonized services sector. In 1994 the Authority received two complaints belonging to this category. Both complaints related to the same question, namely the right to sell lotteries in another EEA State than the one in which they are organized. During the reporting year this issue had been the subject matter of a decision by the Court of Justice of the European Communities in the so-called Schindler case (C-275/92).





The States concerned were Finland and Austria. Each State was requested to provide the Authority with information necessary for it to examine the issues.

When investigating the Finnish case the Authority identified a discriminatory provision in one act in the lotteries sector. Upon the Authority's invitation to do so, Finland deleted that provision from its legislation.

The remaining parts of the Finnish case, and the Austrian case, were still open at the end of 1994, and were therefore handed over to the European Commission.

## **4.4 FREE MOVEMENT OF PERSONS**

### **4.4.1 Free movement of workers**

According to Article 28 of the EEA Agreement, freedom of movement for workers shall be secured among EEA States. Such freedom of movement entails the abolition of any discrimination based on nationality between workers of these States as regards employment, remuneration and other conditions of work and employment.

Moreover, this freedom entails the right to accept offers of employment actually made, to move freely within the territory of EEA States for this purpose, to stay on the territory of an EEA State for the purpose of employment in accordance with the provisions governing the employment of nationals of that State, and to remain on the territory of an EEA State after having been employed there. These rights are subject to limitations justified on grounds of public policy, public security or public health, and they do not apply to such employment in the public service which involves exercise of public authority.

Annex V to the EEA Agreement contains specific provisions on the free movement of workers. It refers to two Regulations and four Directives concerning the abolition of restrictions on freedom of movement and residence for workers and their families. The basic rights to move and work freely are guaranteed by Regulation 1612/68. The Directives provide for co-ordination of special measures concerning the movement and residence of foreign nationals which are justified on grounds of public policy, public security and public health, and for the abolition of restrictions on movement and residence within the EEA for workers of EEA States and their families. They further provide for the extension of the scope of the Directive co-ordinating special measures to workers exercising the right to remain in the territory of an EEA State after having been employed in that State.

By March 1994, all EFTA States had notified national measures taken to comply with the above-mentioned EEA acts. However, the notifications were not complete, and all EFTA States were therefore requested to provide further information and additional legal texts. By the end of the year, only Finland and Sweden had given a complete picture of their implementation situation.

As regards conformity of the national measures, by the entry into force of the EEA Agreement, Iceland had not completed implementation in respect of the two Regulations and of three Directives.

As a result of informal contacts, Iceland indicated that the necessary additional measures would be taken by the end of 1994. A reminder was sent in October, at which time Iceland had not yet implemented the acts. In its reply Iceland indicated that implementation would take place in November. By the end of the year the Authority had received no further information regarding this issue.

One complaint in this field dealt with different treatment of Nordic citizens and other EEA nationals at passport controls at the Helsinki-Vantaa airport. A letter was sent to Finland recalling the principles applicable to controls on EEA nationals when crossing the borders of EEA States. This letter proved effective, and no further complaints have been brought to the attention of the Authority.

Some complaints from EFTA nationals concerning residence and/or working permits were forwarded to the Commission as they related to the EC Member States.

### **4.4.2 Mutual recognition of professional qualifications**

Article 30 of the EEA Agreement stipulates that, in order to make it easier for persons to take up and pursue activities as workers and self-employed persons, the Contracting Parties shall take the necessary measures, as contained in Annex VII, concerning the mutual recognition of diplomas, certificates





and other evidence of formal qualifications, and the co-ordination of the provisions laid down by law, regulation or administrative action in the Contracting Parties concerning the taking up and pursuit of activities by workers and self-employed persons.

The original Annex VII of the EEA Agreement referred to 55 Directives and one decision. One Directive relates to a general system for the recognition of higher-education diplomas, and the other Directives cover the specific sectors such as legal professions, medical and para-medical activities, architecture, commerce and intermediaries, services incidental to transport, film industry, and agriculture.

The Interim Package added two Directives, dealing with a second general system for the recognition of professional education and training to supplement the first general system (92/51/EEC) and the facilitation of the free movement of doctors and the mutual recognition of their diplomas, certificates and other evidence of formal qualifications (93/16/EEC). The Directives entered into force on 1 July 1994.

Not all of the Directives contain provisions on mutual recognition of professional qualifications. Some Directives deal exclusively with the facilitation of the right of establishment and the provision of services; others supplement the mutual recognition Directives.

By May 1994 all EFTA States had completed notification of the national measures taken to comply with the above-mentioned EEA acts. The acts require that the EFTA States provide the Authority with information on competent authorities, information centres and diplomas meeting certain criteria. To a large extent such information was submitted, but it still needs to be completed in some cases.

An important act in this field, the First General System Directive (89/48/EEC) lays down a general system for the recognition of higher-education diplomas. The act applies to professions exercised after a post-secondary course of at least three years' duration at a university or at an establishment of higher education. Professions which are the subject of a special Directive establishing arrangements for the mutual recognition of diplomas are excluded from the scope of the Directive.

In Finland the implementation of the Directive had been carried out by the beginning of 1994. In Norway it was completed during the second half of the year through the adoption of secondary legislation regarding the health care professions.

Sweden and Iceland indicated that complete implementation would be carried out in Autumn 1994. However, such legislation was only notified by Iceland with respect to health care professions. This means that the two States still had some gaps in their implementing measures at the end of 1994.

Conformity assessment revealed that in Austria no implementing measures had been adopted for a considerable number of professions. Measures had not been adopted in respect of important professional groups such as the health care professions and the whole engineering professions sector. Therefore the Authority decided in December 1994 to send a letter of formal notice to Austria.

In September, the Austrian Government initiated a derogation procedure concerning the profession of civil engineer. The derogation aimed at imposing an obligatory aptitude test on providers of services and on engineers from other EEA States wishing to establish themselves in Austria. However, the Authority did not grant the intended measure, which means that the Austrian authorities must give the migrant a choice between an aptitude test and an adaptation period.

As regards the Directive on Architecture (85/384/EEC), a conformity assessment revealed that the implementation in Austria was only partial, and that further measures were needed to complete the transposition. The Authority informed Austria of this, and a reply was received indicating that complete implementation would be carried out by November. However, no notification to this effect had been received by the Authority by the end of 1994.

In the other EFTA States provisions on the freedom to provide services by architects and on their right of establishment are fully implemented.

By the end of the year, the Directives concerning medical and para-medical professions contained in Annex VII had been notified as implemented by all EFTA States, with the exception of Iceland where transposition of one Directive had not been completed. In its answer to a request for information, Iceland indicated that implementation would be carried out during Autumn 1994, but no notification to that effect had been received by the Authority by the end of the year.

The mobility in this group of professions is considerable, and a large number of recognitions were granted during 1994 (for example 240 in Norway, 200 in Sweden).





Directives 64/427 and 64/429 (Industry and small craft industries) were not implemented in Sweden. Since Sweden is a deregulated country as regards access to professions, these Directives only needed to be implemented through legislative measures with respect to the professional activities of electricians. Sweden indicated that such measures would be taken by the end of 1994. Austria, Finland and Norway have implemented these Directives.

In Iceland some of the Directives in the craftsmen sector were covered by existing legislation. As far as professions falling within the Icelandic Industrial Act are concerned, conformity assessment revealed that further legislation was necessary since the systems of dispensations and exemptions laid down in the Act did not fully meet the requirements of Directive 64/427. The attention of the Icelandic authorities was drawn to that fact.

Several complaints were submitted to the Authority in the field of mutual recognition of professional qualifications, all of them concerning Austria. Numerous requests for information and interpretation of the Directives in this field were also received from ministries, professional associations and private persons in several countries. Some of them led to written opinions on the part of the Authority.

A number of complaints by EFTA nationals, mainly in the medical sector, were transferred to the European Commission, since they related to EC Member States.

#### **4.4.3 Right of establishment**

According to Article 31 (1) of the EEA Agreement, within the framework of the provisions of the Agreement there shall be no restrictions on the freedom of establishment of nationals of an EEA State in the territory of another EEA State. That also applies to the setting up of agencies, branches or subsidiaries by EEA nationals in any EEA State.

Annex VIII of the EEA Agreement refers to the general programmes for the abolition of restrictions on freedom to provide services and for the abolition of restrictions on freedom of establishment.

In addition, six Directives were included in the original Annex VIII. The Directives relate to the abolition of restrictions on movement and residence within the EEA for nationals of EEA States.

One Directive on the right of residence for students (93/96/EEC) was added through the Interim Package.

In Austria, Finland, Norway and Sweden, the provisions of the Directives have been properly implemented. As regards Iceland, according to its Foreign National Supervision Act the Minister of Justice shall set further rules on the implementation of those Directives. Since this had not been done by the beginning of October 1994, the Authority sent a reminder to Iceland. The reply received in November indicated that the rules were not yet in force, but the Ministry intended to make the necessary changes before the end of the month. However, no further notifications or legal texts had been submitted by the end of the year.

As regards the Directive on the right of residence for students, contained in the Interim Package, Iceland failed to provide notification of national measures implementing the act. The Directive was therefore included in a letter of formal notice regarding non-notification of certain Directives in the Interim Package which was sent to that State in November 1994.

Two complaints were received regarding the right of residence for nationals of non-EEA countries. A manager of a business established in Austria, and the spouse of an Austrian national, were both denied the right to stay in Austria. The first case could be solved through an intervention of the Authority; the second case was still pending at the end of the year.

#### **4.4.4 Social security**

Article 29 of the EEA Agreement stipulates that, the Contracting Parties shall, in order to provide freedom of movement for workers and self-employed persons and their dependants, secure, as provided for in Annex VI, for workers and self-employed persons and their dependants, in particular:

- (a) aggregation, for the purpose of acquiring and retaining the right to benefit and of calculating the amount of benefit, of all periods taken into account under the laws of the several countries; and
- (b) payment of benefits to persons resident in the territories of Contracting Parties.

Annex VI to the EEA Agreement refers to two comprehensive Council Regulations. The main Regulation (1408/71) deals with the application of social security schemes to employed persons, to self-employed





persons, and to members of their families moving between EEA States, and the second lays down the procedure for the implementation of the first. The original Annex VI contained 17 acts amending and updating the Regulations after 1983.

Through the Interim Package Annex VI was amended from the date of entry into force of the EEA Agreement by four acts updating the two Regulations. This also included the adaptations of the annexes of the acts necessary for the application of the Regulations in the EFTA States.

Notifications were received by the Authority on the implementation of these acts in all EFTA States. On the basis of these notifications and the additional information given, it was concluded that all acts were properly implemented in the EFTA States.

These States also submitted notifications with lists of their national schemes and benefits, covered by the main Regulation (1408/71). If a benefit is listed, the State concerned is bound to apply the provisions of the Regulation on that benefit. These lists are published in the EEA part of the Official Journal of the European Community.

During 1994, six complaints were received by the Authority in this sector. In one case, involving Sweden and relating to national payment of student grants for studies in a Community Member State, no infringement could be established. Another complaint against Sweden, regarding the national decision-making in social insurance matters, was found to be outside the scope of the EEA Agreement.

One complaint against Sweden related to children's allowances, but examination of this case was suspended due to ongoing appeal proceedings. Three further complaints, one concerning labour market aid in Finland, and two concerning the right to unemployment benefits in Finland and Sweden respectively, were still under examination at the end of 1994. These four cases were handed over to the European Commission in accordance with the Accession Treaty.

A number of complaints from EFTA nationals were forwarded to the European Commission as the complaints related to EC Member States.

## **4.5 HORIZONTAL AREAS RELEVANT FOR THE FOUR FREEDOMS**

Part V of the EEA Agreement contains provisions relevant to the four freedoms in the areas of health and safety of workers, labour law, equal treatment for men and women, consumer protection and the environment. Co-operation in these fields aims at promoting high levels of protection and equal conditions of competition within the EEA.

### **4.5.1 Health and safety at work**

In Article 66 of the EEA Agreement the Contracting Parties agree upon the need to promote improved working conditions and an improved standard of living for workers. In Article 67(1) they state that they shall pay particular attention to «encouraging improvements especially in the working environment», as regards health and safety of workers. In order to help to achieve this objective, minimum requirements shall be applied for gradual implementation, having regard to the conditions and technical rules obtaining in each of the Contracting Parties. Such minimum requirements shall not prevent any Contracting Party from maintaining or introducing more stringent measures for the protection of working conditions compatible with this Agreement.

Annex XVIII to the EEA Agreement specifies the provisions to be implemented as the minimum requirements referred to in Article 67(1). The original Annex referred to 16 Directives. They cover such areas as the environment at the work place, protection against dangerous substances, and protective equipment, as well as protection of pregnant and breast-feeding workers. All these Directives were to be implemented by 1 January 1994.

Eight Directives were added to Annex XVIII through the Interim Package. They cover such areas as mineral extracting industries, temporary construction sites, medical treatment on board ships, facilities for pregnant women and for women with new-born babies. With one exception, these Directives entered into force during 1994.

Notifications were received from all EFTA States on the implementation of the Directives. As a rule, in most EFTA States the regulatory standard in this sector is relatively high, and the provisions of the Agreement and secondary legislation were mostly implemented through modifications in existing national legislation.



However, additional information regarding transposition had to be sought from some EFTA States regarding the question of how federal and local civil servants were covered, as they are excluded in the national act notified as transposing these Directives. By the end of the year no such information had been received.

#### **4.5.2 Labour law**

Regarding the sector of labour law, Article 68 of the EEA Agreement provides that the Contracting Parties shall introduce the measures necessary to ensure the good functioning of the Agreement. Those measures are specified in the acts referred to in Annex XVIII to the Agreement.

The original Annex XVIII referred to three Directives. They deal with the approximation of the laws relating to collective redundancies (dismissals), safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of businesses, and protection of employees in the event of insolvency of their employer.

Through the Interim Package, two Directives were added to the Annex, one amending the Directive on collective redundancies, the other laying down rules on the employer's obligation to inform employees of the conditions applicable to the contract or employment relationship.

Complete notifications were received from all EFTA States concerning the first three Directives. All States have also notified the implementation of the two additional acts. However, the Icelandic and Norwegian notifications are not yet complete in that the Authority did not receive the texts of all national implementing measures.

Upon conformity assessment, first a letter of formal notice and then a reasoned opinion were sent to Finland for failure to comply with the provisions on protection of supplementary pensions in the Directive on the safeguarding of employees' rights in the event of transfers of undertakings (77/187/EEC) and in the Directive on the protection of employees in the event of insolvency of their employer (80/987/EEC). At the end of the year, the same issue was under examination by the Authority in respect of Norway and Sweden.

Two letters of formal notice were sent to Sweden, one regarding the implementation of Directive 77/187/EEC (transfer of undertakings), and the other regarding Directive 80/987/EEC (wage guarantee). Both of these cases were based on complaints from individuals and organizations. As regards the first case, Sweden subsequently amended its legislation on the relevant points as from the beginning of January 1995.

A complaint was lodged with the Authority concerning the implementation in Finland of Directive 77/187/EEC with regard to the coverage of civil servants.

The open cases against Finland and Sweden were handed over to the European Commission in accordance with the Accession Treaty.

#### **4.5.3 Equal treatment for men and women**

In Article 69(1) of the EEA Agreement each Contracting Party undertakes to ensure and maintain the application of the principle that men and women should receive equal pay for equal work. Equal pay without discrimination based on sex means that pay for the same work at piece rates shall be calculated on the basis of the same unit of measurement, and that pay for work at time rates shall be the same for the same job.

Annex XVIII to the EEA Agreement refers to specific provisions for the implementation of this principle. Three Directives deal with equal treatment at work. One of them regards equal pay. Another applies to access to employment, vocational training and promotion, and working conditions. The third refers to equal treatment in self-employed activities. Two Directives are concerned with equal treatment in matters of social security and in occupational social security schemes. No new acts were added to the Annex in 1994.

Complete notifications regarding these Directives were received from all EFTA States during 1994.

On the basis of the notifications, as well as additional information received following informal meetings and written requests, the Authority was able to assess the conformity of the national measures implementing the Directives. While no major discrepancies were detected, Finland indicated that certain





amendments to national legislation would be made, especially concerning the information obligations under the Directives. The amendments did not enter into force during 1994. Iceland has so far not replied to the Authority's request for information concerning the application of equal treatment as regards pension funds.

No complaints regarding this sector were lodged with the Authority in 1994.

#### **4.5.4 Consumer protection**

Annex XIX refers to seven Directives which deal with the indication of prices, misleading advertising, contracts negotiated away from business premises, consumer credits, dangerous imitations and package travel. All Directives were to be implemented as of the beginning of 1994. One Directive on unfair terms in contracts was added as of 1 July 1994 as part of the Interim Package, and was to be implemented by 31 December 1994.

All EFTA States during 1994 submitted complete notifications to the Authority on the original Directives, with the exception of Norway in respect of the Directive on consumer credits and the Directive on package travel. Regarding most Directives EFTA States provided tables of correspondence or other forms of information enabling the Authority to assess the conformity of the national measures with the provisions of the Directives.

For three EFTA States it proved difficult to implement the package travel Directive (90/314/EEC) without delay. For this reason Austria was sent a letter of formal notice for partial non-implementation of the Directive. Finland and Norway were sent a pre Article 31 letter requesting information on the time when envisaged national measures ensuring full compliance with the Directive would enter into force. In Austria and Finland the necessary national measures were adopted during 1994 and will enter into force during 1995. In Norway, where consumer protection is at present covered by other means, the Government Bill will only be presented in 1995. The cases regarding Austria and Finland were handed over to the Commission.

As regards the Directive on Consumer Credits (87/102/EEC), Norway notified that legislation concerning loans other than those related to goods transactions, was planned for the end of 1994.

The Authority received one complaint on the implementation in Austria of the Directive on Misleading Advertising (84/450/EEC). Upon examination of the issue, a letter of formal notice was sent to that State on partial non-implementation of the Directive. The case was transferred to the European Commission in accordance with the Accession Treaty.

#### **4.5.5 Environment**

Article 73 of the EEA Agreement stipulates that the objectives of the action by the Contracting Parties relating to environment are to preserve, protect and improve the quality of environment, to help protect human health, and to ensure a prudent and rational utilisation of natural resources. Furthermore, action by the Contracting Parties relating to the environment is to be based on the principles that preventive action should be taken, that environmental damage should as a priority be rectified at source, and that the polluter should pay. Finally, environmental protection requirements are to be a component of the Contracting Parties' other policies.

The secondary legislation included in Annex XX of the EEA Agreement contains the specific provisions on protective measures which shall apply in this respect. Article 75 of the Agreement stipulates, however, that those protective measures shall not prevent any Contracting Party from maintaining or introducing more stringent protective measures compatible with the Agreement. EFTA States made largely use of this right.

Annex XX comprises in total 51 acts, of which 32 were included in the original agreement and 19 were added through the Interim Package and later Joint Committee decisions.

Two horizontal Directives require that an assessment of the environmental impact of major projects is carried out (85/337/EEC) and that everyone should have access to information on the environment (90/313/EEC).

A group of Directives lays down quality standards for water and air as well as minimum requirements with regard to emissions and control of risks of industrial installations and certain other sources.





A number of other acts establish common rules in the field of waste management and disposal. According to the waste framework Directive 75/442/EEC, waste policy should be governed by the principles that waste production and its harmful effects should be prevented, that the recovery of waste and its use as a source of energy should be promoted, and that waste should be disposed of without endangering human health or the environment.

Two Directives dealing with the contained use (90/219/EEC) and the deliberate release (90/220/EEC) of genetically modified organisms aim at striking a balance between the interests of research and industrial application on the one hand, and the control of risks in the biotechnology sector on the other.

The increasing interest of economic operators in environmentally sound management of resources and production processes is reflected in two Regulations establishing voluntary schemes for the award of eco-labels for products (880/92) and the eco-management and auditing of companies in relation to their sites (1836/93).

Iceland had a transition period up to 1 January 1995 for the implementation of most of the air and water Directives, and Norway for the implementation of the waste framework Directive (75/442/EEC). All five States had the same transition period for the Directives relating to genetically modified organisms (90/219/EEC, 90/220/EEC) and shipment of waste (84/631/EEC) and hazardous waste (78/319/EEC). The shipment of waste and hazardous waste Directives were replaced by new acts included in the Interim Package (Dir. 91/689/EEC, Reg. 259/93).

Notifications for all acts which had to be implemented by 1 January 1994 were received by the end of April 1994. Most notifications were complete, while in some cases the Authority had not received all the texts of national implementing measures at the end of 1994, or was informed that the act had not yet been completely implemented. By the end of the year, notifications had also been received for those acts which were to be implemented by 1 July 1994.

The Authority's conformity assessment concentrated on a number of Directives which had to be implemented as from 1 January 1994. In an informal dialogue with the EFTA States' authorities and in meetings that the Authority arranged in Finland, Sweden, Norway and Iceland, open questions were clarified or problems identified more precisely, in particular with respect to the lack of legally binding limit values and/or other specific regulations in the field of water protection, air pollution control and waste. However, it could be assumed that neither environmental conditions in the countries concerned (Austria, Norway and Sweden) nor the functioning of the EEA were significantly affected since the rules in question were largely observed in practice. Therefore, most of these problems were addressed by informally inviting the States concerned to adopt measures fully implementing the Directives in question.

Regarding the cases where implementing measures were not in place by the end of 1994, replies by Norway and Sweden to the Authority's «pre Article 31 letters» indicated that legislation filling remaining gaps in the fields of water protection and air pollution control (both in Norway and in Sweden) as well as waste (in Norway) was under preparation and would most probably enter into force in 1995.

In a similar way, the Austrian Government informed the Authority of the progress of legislative work which would complete the implementation in the field of water protection. However, no target date for the entry into force of these measures was indicated. As regards the legislation in the field of air pollution control for industrial installations, Austria held the view that no adaptations to existing EEA legislation were necessary.

Some problems also remained to be solved in Austria in cases where implementation of certain acts partly or entirely fell within the legislative competence of the «Länder». Thus, regarding Directive 86/278/EEC on sewage sludge in agriculture, notifications were not submitted by all Länder, or the notifications received by the Authority indicated that implementation was not yet complete. Notifications regarding Directive 90/313/EEC on the freedom of access to information on the environment were received both from the Federal Government and the provinces by the end of 1994. However, conformity checks revealed a number of discrepancies between the Directive and the measures adopted in six provinces. In both cases, pre Article 31 letters were sent.

Letters of formal notice were sent to Austria for non-implementation of three Directives relating to drinking water (75/440/EEC, 79/869/EEC and 80/778/EEC). In replying to the letters, Austria indicated that the necessary regulations which would ensure compliance with the Directives were being prepared and/or that the requirements of the Directives were met in practice.





Furthermore, as no substantive progress was made in a legislative project which would remedy the deficiencies, three reasoned opinions were sent at the end of the year to Austria for failure to adopt measures completely transposing the Directives on air quality limit values (80/779/EEC, 82/884/EEC and 85/203/EEC). The Austrian Government indicated that the limit values were not exceeded in practice. The cases were handed over to the European Commission in accordance with the Accession Treaty.

Public interest focused in particular on one act, namely Directive 85/337/EEC on environmental impact assessment. No less than 76 complaints alleging non-implementation and/or non-application of the Directive were received by the Authority. Of them, 74 concerned seven different projects in Austria, two were related to a highway project in Finland. In all cases, the Authority requested the Governments concerned to provide information on the projects in question. As regards Austria, the Authority had no indication that decisions granting development consent in the procedures in question were taken in 1994. Regarding the highway project in Finland, the Finnish Government stated that an environmental impact assessment in compliance with the requirements of the Directive had been carried out before consent to the project was given. The cases were handed over to the European Commission.

A pre Article 31 letter concerning late and incomplete implementation of Directive 85/337/EEC was sent to Sweden, where only large scale railroad projects were not covered by specific requirements regarding environmental impact assessment. In respect of the same Directive, letters of formal notice were dispatched to Finland, Austria and Norway, where discrepancies between the requirements of the Directive and national legislation were more important.

Meanwhile, Finnish legislation, which, according to the notification, ensured full implementation of Directive 85/337/EEC, entered into force in September 1994. The Austrian act which ensures complete implementation became applicable to consent procedures initiated after 31 December 1994. In Norway and Sweden preparatory work for the necessary adaptations to existing legislation was also under way by the end of 1994. The two States indicated that, until the entry into force of the respective amendments, the requirements of the Directive would be taken care of in practice.

## **4.6 PUBLIC PROCUREMENT**

### **4.6.1 Relevant legislation and main principles and policies**

Annex XVI to the EEA Agreement contains specific provisions and arrangements concerning public procurement. According to Article 65(1) of the Agreement, unless otherwise provided for, they apply to all products and to services as specified.

The original Annex XVI referred to six binding acts (five Directives and one Regulation)<sup>(5)</sup>. They lay down general procedural procurement rules applying to central, local and regional authorities, as well as specific rules applicable to public and private entities operating in the four sectors of water and energy supply, transport and telecommunication (utilities). The acts concern procurement of supplies and works above specified thresholds, and set forth, inter alia, rules on legal remedies with regard to procurement by authorities.

With the entry into force of the Interim Package on 1 July 1994, Annex XVI was amended to include a total of eight binding acts (seven Directives and one Regulation)<sup>(6)</sup>. The existing general rules on procurement of supplies and works applying to authorities were consolidated and, regarding supplies, also amended. In addition, rules on procurement of services, and on legal remedies applying to utilities, were introduced.

Consequently, with one exception, as of 1 July 1994 the rules governing public procurement in the EFTA States are identical to the rules applicable to the Community Member States, thus creating a single EEA public procurement market. The exception was that, up to the end of 1994, Norway

(5) Council Directives 71/304/EEC, 71/305/EEC, 77/62/EEC, 89/665/EEC, 90/531/EEC and Regulation (EEC/Euratom) No. 1182 of 3 June 1971.

(6) Council Directives 71/304/EEC, 89/665/EEC, 92/13/EEC, 92/50/EEC, 93/36/EEC, 93/37/EEC, 93/38/EEC and Regulation (EEC/Euratom) No. 1182 of 3 June 1971.



enjoyed a transitional arrangement in respect of the implementation of the Utilities Directive (93/38/EEC)<sup>(7)</sup>.

By virtue of the basic principles of the EEA Agreement, all public procurement must be carried out in a non-discriminatory manner.

The main objective of the public procurement Directives is to oblige contracting authorities and entities to apply certain procedures when procuring supplies, services and works with a value exceeding certain thresholds, in order to secure equal treatment of all suppliers, service providers and contractors established within the EEA. As a main rule, notices on contracts to be awarded shall be published in the Official Journal of the European Communities. In addition, legal remedies are provided for on the national level.

During the reporting period, the Authority controlled the transposition of the Directives referred to above, while acting, at the same time, on complaints or on its own initiative regarding failures to correctly apply the rules. While safeguarding the interests of potential suppliers, the Authority endeavoured to correct, to the extent possible without having recourse to formal infringement proceedings, non-compliance with the legislation. In general, the EFTA States showed great willingness to co-operate and to take corrective action in case of incorrect application.

Providing information and guidance on the EEA procurement rules, both to the procuring and to the supply side, was an integral part of the Authority's work. In May 1994 the Authority arranged, in co-operation with the European Commission, a seminar in Brussels which gathered approximately 175 participants from the EFTA States. Furthermore, representatives of the Authority discussed procurement rules and their application in 15 seminars in the EFTA States and in approximately 70 meetings in Brussels. There was good co-operation with the Commission on surveillance matters, including questions of the interpretation of the procurement rules.

#### **4.6.2 Notifications**

During 1994, Finland, Iceland, Norway and Sweden notified national measures both with respect to the acts contained in the original Agreement, and regarding those introduced by the Interim Package on 1 July 1994.

Austria notified the measures implementing the acts of the original Agreement on the federal level. A letter of formal notice was sent to Austria in June 1994 for lack of transposition on the level of the Länder (implementation by a Land applies also to local authorities in the Land). According to the latest notification received from Austria prior to the end of the reporting period, the situation in the nine Länder may be summarized as follows:

The acts contained in the original Agreement were transposed in Carinthia, Tyrol, Upper Austria and Vorarlberg. Lower Austria and Vienna had issued temporary guidelines regarding compliance with the acts. Burgenland and Salzburg had passed but not yet promulgated transposing legislation, and Styria, as well as those Länder which had been applying temporary guidelines, i.e. Lower Austria and Vienna, had presented to the regional Parliaments bills on new procurement legislation.

With regard to the acts which entered into force in the EEA on 1 July 1994, only Vorarlberg had adopted transposing legislation, while Vienna had amended its temporary guidelines accordingly, and had taken the Interim Package into account when presenting the above mentioned draft bill to the regional Parliament.

#### **4.6.3 Conformity assessment**

Detailed conformity assessment of the notified measures was carried out concerning the acts included in the original EEA Agreement on the procurement of supply and works by authorities and utilities. For each directive, a table of correspondence was established. Detailed observations on the national legislation were informally presented to the EFTA States for comments at the end of June

*(7) Such transitional periods have been granted also to Spain (until the end of 1996), as well as to Greece and Portugal (until the end of 1997).*





1994, followed by oral discussions with responsible authorities, inter alia, in package meetings in EFTA capitals. Replies were received in writing from EFTA States to a large number of the matters raised by the Authority.

In the discussions and written replies, several matters addressed by the Authority were clarified as not affecting the conformity of the measures. In a number of other cases national authorities were planning to correct shortcomings through amendments envisaged for 1995. However, some questions were still open at the end of the reporting period.

#### 4.6.4 Application of the rules on public procurement

In 1993, due to the GATT Code on Government Procurement, the EFTA States published a total of 436 notices in the Official Journal of the European Communities/Tenders Electronic Daily. In 1994, due to the EEA Agreement, the number of publications had increased to approximately 4800 (for detailed information see Table 2).

During the reporting period, the Authority started eight cases on its own initiative, four relating to Finland, three to Sweden, and one to Norway. In five of them, a satisfactory solution was reached after pre Article 31 letters had been sent (two to Finland and Sweden respectively, one to Norway), while three cases (two regarding Finland, and one regarding Sweden) were solved after informal contacts with the responsible authorities in the EFTA State concerned.

Furthermore, the Authority received 14 complaints (four regarding Austria and Sweden respectively, three regarding Finland and Norway respectively), alleging failure by these States to comply with the EEA procurement rules. This resulted in 13 cases being opened by the Authority, whereas one complaint concerning Sweden was found not to be legally founded.

Seven of these cases were solved after pre Article 31 letters (three regarding Austria, two regarding Norway, and one regarding Finland and, respectively, Sweden), while one case against Austria was solved after the Authority had issued a letter of formal notice. Furthermore, one case concerning Sweden was solved after direct informal contacts. Finally, four cases based on complaints were still pending by the end of 1994. They concerned:

- rejection of all tenders submitted, in favour of in-house performance;
- privatization of public in-house activities with transferral of existing tasks to new private owners; and
- a test method, adopted by central government authorities, which was alleged to be discriminatory (identical complaints on two countries).

The shortcoming upon which the Authority had to act most frequently was failure to publish a contract notice in the Official Journal/Tenders Electronic Daily.

As regards both complaints and own initiative cases related to the application of the rules, inter alia the following legal problems were addressed:

- In two cases notices had not been transmitted to the Official Journal due to miscalculation of thresholds.
- A local authority considered that procurement rules were not applicable to an exchange of lands. However, the transaction in question concerned a public works project for the reason that a new fire station was to be constructed in accordance with the requirements of the local authority on the property concerned prior to its transfer to that authority.
- A tender notice concerning a framework contract had not been published.
- A tender notice concerning a contract for the building of a hospital had not been published because a local authority intended to lease the hospital, even though the contract was to be awarded under the control of the local authority and according to the specifications defined by that authority.
- Several contracting authorities had unduly applied the so-called «accelerated restricted procedure».
- In a tender notice for the open procedure for the award of a supplies contract insufficient time had been allowed for submitting tenders.

In most of the above mentioned cases the intervention of the Authority resulted in publication or republication of a notice in the Official Journal of the European Communities/Tenders Electronic Daily in accordance with the EEA rules.



Certain cases which had to be addressed by the Authority concerned rules or decisions of local government bodies :

- A municipality had not amended its procurement rules dating back to the time before the entry into force of the EEA Agreement which required that local employment be taken into account when selecting contractors. The municipality undertook to align its procurement rules with the EEA Agreement.
- A city council decided to favour local products. The decision was cancelled.
- Several procuring authorities required the use of local long-term unemployed persons for works contracts. The EFTA State in question undertook to stop discrimination based on the place of residence of the persons concerned.
- In the procurement rules of a municipality, the employment of apprentices was one of the conditions to be taken into account when awarding works contracts. The EFTA State concerned undertook to issue guidelines in accordance with the principles of the EEA Agreement on non-discrimination, and the municipality to amend its rules accordingly.

Five complaints received concerning Community Member States were transferred to the European Commission.

**Table 2: EFTA NOTICES IN THE OFFICIAL JOURNAL/TENDERS ELECTRONIC DAILY (TED) IN 1994 <sup>(8)</sup>**

**TABLE 2.1:** Notices according to procedure:

PROCEDURES	AUSTRIA	FINLAND	ICELAND	NORWAY	SWEDEN	TOTAL
PRE-INFORMATION NOTICES	113	14	5	42	102	276
OPEN	561	307	23	461	1281	2633
RESTRICTED	25	98	0	130	243	496
ACCELERATED RESTRICTED	1	19	0	10	11	41
NEGOTIATED	31	52	0	35	185	303
ACCELERATED NEGOTIATED	1	0	0	4	7	12
AWARD	175	132	1	180	520	1008
QUALIFICATION SYSTEM (93/38)	7	0	0	27	11	45
DESIGN CONTEST	0	0	0	1	0	1
RESULT DESIGN CONTEST	0	0	0	0	0	0
<b>TOTAL</b>	<b>914</b>	<b>622</b>	<b>29</b>	<b>890</b>	<b>2360</b>	<b>4815</b>

**TABLE 2.2:** Notices according to type of contract:

	AUSTRIA	FINLAND	ICELAND	NORWAY	SWEDEN	TOTAL
WORKS	389	72	2	295	234	992
SUPPLIES	500	510	26	471	1341	2848
SERVICES	7	37	1	93	761 <sup>(9)</sup>	899
MIXED	11	3	0	15	26	55
<b>TOTAL <sup>(10)</sup></b>	<b>907</b>	<b>622</b>	<b>29</b>	<b>874</b>	<b>2362</b>	<b>4794</b>

(8) Source: TED Archives 1994.

(9) Sweden implemented Directive 92/50 as of 1 January 1994. The Directive became a part of the EEA Agreement as of 1 July 1994.

(10) It is unknown why the total does not for all countries correspond exactly to the total in Table 1. The discrepancies are, however, relatively small.



**TABLE 2.3:** Notices according to contracting authority/entity:

	AUSTRIA	FINLAND	ICELAND	NORWAY	SWEDEN	TOTAL
CENTRAL AUTHORITIES	212	134	21	351	309	1027
ARMED FORCES	75	14	0	20	62	171
LOCAL AUTHORITIES	449	354	8	468	1792	3071
UTILITIES	136	118	0	46 <sup>(11)</sup>	166	466
<b>TOTAL <sup>(12)</sup></b>	<b>872</b>	<b>620</b>	<b>29</b>	<b>885</b>	<b>2329</b>	<b>4735</b>

## 4.7 STATE AID

### 4.7.1 Relevant legislation and competences

The EEA provisions on State aid aim to ensure that conditions of competition for enterprises are equal and that States do not take measures favouring their national industries or individual enterprises, whether private or public. The control of State aid also aims to strike a balance between benefits to aid recipients on the one hand, and disadvantages to competitors and taxpayers on the other. Articles 61-64 of the EEA Agreement lay down the State aid rules which are identical in substance to Articles 92-94 of the EC Treaty.

Aid granted through State resources that distorts or threatens to distort competition is in principle prohibited according to Article 61 of the EEA Agreement. An EFTA State shall not implement a new aid measure before the Authority has approved it. State aid plans must, therefore, be notified to the Authority prior to implementation. The Authority has to assess whether such a plan constitutes State aid and, if it does, examine whether it is eligible for exemption. Decisions by the Authority in State aid cases may be challenged before the EFTA Court.

Apart from deciding on all plans to grant or alter aid, the Authority is also, under Article 1 of Protocol 3 to the Surveillance and Court Agreement, obliged to review all existing aid schemes of the EFTA States. The review procedure is carried out in co-operation with the States concerned. The Authority shall propose measures to either amend or abolish aid schemes that are found to be incompatible with the State aid rules.

Protocol 26 of the EEA Agreement stipulates that the Authority is entrusted with equivalent powers and similar functions to those of the Commission in the field of State aid. Furthermore, Protocol 27 lays down the principles according to which the Authority and the Commission shall co-operate in order to ensure a uniform implementation of the State aid rules.

### 4.7.2 General policy developments

#### 4.7.2.1 Non-binding acts: State Aid Guidelines

Points 2 to 37 of Annex XV EEA list the acts of which the Authority shall take due account when applying the EEA State aid rules. These acts comprise communications, frameworks, guidelines and letters to Member States which the European Commission, at various points of time, has issued in the field of State aid. These so-called non-binding acts explain the interpretation and application of Articles 92-93 of the EC Treaty.

In accordance with Article 5(2)(b) and Article 24 of the Surveillance and Court Agreement, the Authority adopted corresponding acts in the field of State aid. All the relevant notices, communications, guidelines and frameworks issued by the Commission have been codified, on the EFTA side, in one single document,

(11) The Utilities Directive 93/38 (90/531 until 30.06.94) was not in force in Norway during 1994. It was implemented as of 1 January 1995.

(12) It is unknown why the total does not for all countries correspond exactly to the total in Table 1. The discrepancies are, however, relatively small.



the «State Aid Guidelines»<sup>(13)</sup>. These Guidelines, which the Authority issued in January, take account of about 40 non-binding acts of the Commission and some 130 judgements delivered by the Court of Justice of the European Communities. Among these were also new acts issued by the Commission between the cut-off date for Annex XV EEA, i.e. 31 July 1991, and the entry into force of the EEA Agreement.

The State Aid Guidelines lay down the procedural rules for the assessment of new aid, for the review of existing aid, and for the formal investigation procedure. The rules contribute to increased transparency in the field of State aid and give guidance to national authorities on the notification formalities and other procedural steps.

The substantive rules of the Guidelines are divided into five main parts. The rules on horizontal aid lay down the assessment criteria for aid to small and medium-sized enterprises, aid to research and development, environmental protection, employment, rescue and restructuring aid, and State guarantees. Specific rules apply for aid granted to public enterprises. The sectoral part deals with aid granted to the textile and clothing industries, the synthetic fibres sector, the motor vehicle industries and the non-ECSC steel industries. The Guidelines also include rules on regional aid and certain specific rules, concerning for example annual reporting.

The Authority has followed closely the development on new non-binding State aid acts being prepared by the Commission and has contributed to the drafting of such acts. The Authority held two multilateral meetings in the field of State aid during the course of 1994 whereby mainly developments concerning new non-binding acts were discussed with the EFTA experts. Once such new acts have been discussed with the EFTA States and adopted by the Commission, the acts are adapted for EEA purposes so that they may subsequently be included in the State Aid Guidelines.

The Guidelines were amended four times. In May, the Authority amended the section on reference interest rates and fixed the reference/discount rate for each EFTA State participating in the EEA<sup>(14)</sup>. In July, the rules on regional aid were amended by taking account of the specific situation in the Nordic countries through the introduction of the «low population density criterion» as a third criterion for the eligibility of an area for regional aid<sup>(15)</sup>. In August, the duration of the rules for aid to the synthetic fibres industry was extended until the end of the first half of 1995<sup>(16)</sup>. Subsequently, all EFTA States agreed to comply with the specific obligations in these rules. In October, the new rules on rescue and restructuring aid were adopted<sup>(17)</sup>.

The Authority's experience shows that the compilation of the Guidelines into a single integrated document adds to the transparency required in State aid surveillance. This approach has also received positive reactions from the authorities in the EFTA States, as well as from other interested parties. The Authority intends to continue updating the Guidelines as an integrated version.

Following the entry into force of the Interim Package<sup>(18)</sup> on 1 July 1994, the Steel Aid Code and the 1993 amendment to the Transparency Directive were integrated into Annex XV to the EEA Agreement. With regard to aid to shipbuilding, a common understanding between the Contracting Parties is reflected in the «Joint Statement on Shipbuilding», annexed to the Joint Committee Decision 7/94. It foresaw that the «Joint Declaration on Shipbuilding» and the «Declaration by the European Community on Shipbuilding», both annexed to the Final Act to the EEA Agreement, would remain applicable until the end of 1994. The Joint Statement further contained a commitment to integrate the Seventh Shipbuilding Directive into the EEA Agreement with effect as from 1 January 1995, in case of prolongation beyond the end of 1994 or replacement by a new directive.

(13) *Procedural and Substantive Rules in the Field of State Aid - Guidelines on the application and interpretation of Articles 61 and 62 of the EEA Agreement and Article 1 of Protocol 3 to the Surveillance and Court Agreement (EFTA Surveillance Authority Decision 4/94/COL of 19 January 1994 - OJ L 231, 3.9.1994).*

(14) *EFTA Surveillance Authority Decision 37/94/COL of 11 May 1994 on the amendment of paragraph 3 (f) of Chapter 27 of the Procedural and Substantive Rules in the Field of State Aid (OJ L 240 of 15.9.1994, p. 32).*

(15) *EFTA Surveillance Authority Decision 88/94/COL of 20 July 1994 on the second amendment of the Procedural and Substantive Rules in the Field of State Aid (OJ L 240 of 15.9.94, p. 33).*

(16) *EFTA Surveillance Authority Decision 99/94/COL of 31 August 1994 on the third amendment of the Procedural and Substantive Rules in the Field of State Aid (extension of the period of validity of the rules for aid to the synthetic fibres industry) (OJ L 263 of 13.10.94, p. 22).*

(17) *EFTA Surveillance Authority Decision 123/94/COL of 19 October 1994 on amending the fourth time the Procedural and Substantive Rules in the Field of State Aid (Not yet published).*

(18) *Decision of the EEA Joint Committee No 7/94 of 21 March 1994 amending Protocol 47 and certain Annexes to the EEA Agreement, OJ L 160 of 28. 6. 1994. The amendments to Annex XV of the EEA Agreement are at Annex 13 to the Joint Committee Decision.*





#### 4.7.2.2 Co-operation with the European Commission

Protocol 27 to the EEA Agreement lays down the various areas in which the Commission and the Authority shall co-operate in order to ensure a uniform application of the State aid rules. Information and views on general policy issues were exchanged between the two authorities in meetings held on different levels. For this purpose, monthly meetings at Directors' level were established. Formal consultations took place on the Commission's new drafts on non-binding State aid acts, whereby the Authority submitted its comments and those of the EFTA States to the Commission. Cross representation of both authorities in multi-lateral meetings was also established. Furthermore, the Authority and the Commission informed each other of all decisions taken on State aid schemes and on individual aid cases. Information was also provided on a case-by-case basis on individual aid cases at the request of the other authority.

The co-operation between the two surveillance authorities in the field of State aid worked well in practice. The close contacts and co-operation on different levels contributed to a homogenous application of the State aid rules throughout the EEA.

In accordance with Article 109, either surveillance authority examined complaints falling within its competence and passed to the other authority any complaints which fell within the competence of that authority.

#### 4.7.2.3 Support to banks

The policy area concerning support to banks in the Nordic EFTA States received special attention by the Authority. The Nordic banking crisis and subsequent support measures have been unique in Europe. Therefore, very little case law exists which is directly relevant to this field, and there is no well developed policy that the European Commission would have pursued in respect of measures of this kind. The Authority therefore began preparing a study which might serve as a basis for assessing bank aid cases.

In December, the Authority decided to propose appropriate measures with regard to bank aid in Finland, Norway and Sweden. The existing legislation in each of these countries provides a framework for a wide range of measures to support banks. In order to increase the transparency of such support measures and to ensure their adjustment to the principles of State aid control, the Authority found it necessary to require, by proposing appropriate measures, that national authorities in future notify all individual awards of aid under their appropriate legal acts prior to implementation. These decisions taken by the Authority, therefore, affected only procedural questions related to bank aid in the Nordic countries.

### 4.7.3 Existing aid schemes and plans to grant or alter aid

#### 4.7.3.1 Review of existing aid

After the entry into force of the EEA Agreement the Authority requested the EFTA States to provide information on all existing State aid schemes by the beginning of March 1994. The Authority received information on some 400 existing schemes. Once a first assessment of the submitted material had been carried out, preliminary observations made by the Authority and requests for additional information were presented in 'package meetings' in the capitals during the months of May and June. As regards Austrian existing aid schemes, emphasis was put on aid administered at the Federal level.

In accordance with Article 1(1) of Protocol 3 to the Surveillance and Court Agreement, the Authority was obliged to keep all systems of aid existing in the EFTA States under constant review, in co-operation with those States, with a view to ensuring the compatibility of the aid systems with Article 61 EEA. Under this provision the Authority shall propose appropriate measures to existing aid that is incompatible with the functioning of the EEA Agreement.

A breakdown of the objectives of the existing aid schemes in the EFTA States is given in the table below. The statistics on the information entered into the State aid database based on information submitted by the EFTA States indicate that the bulk of the existing schemes promote small and medium-sized enterprises (SMEs). Furthermore, a great number of the existing schemes concern the financing of R&D projects. Several schemes are designed to promote regional development and various sectors of industry.

**Table 3.** Occurrence of different objectives of the existing aid schemes in the EFTA States on 1.1.1994.

Type of primary or secondary objective	Number of schemes
General aid	8
Aid to SMEs	153
Aid for R&D	90
Environmental aid	41
Energy saving	20
Aid to employment	42
Aid to culture	14
Aid to tourism	7
Sectoral aid	59
Aid to fisheries	14*
Regional aid	60
Rescue and restructuring aid	21
Export aid	14
Transport aid	23
Other objectives	45

\* No review of aid to fisheries has been carried out since the Authority deems that it has no competence to assess such aid.

The review of all existing aid schemes of the EFTA States amounted to a huge undertaking. After having pursued an assessment of the schemes, and after a second round of package meetings in the capitals during the month of October, the Authority decided that appropriate measures were necessary in respect of certain cases. A total of 17 such decisions affecting altogether 50 existing aid schemes were taken by the Authority during the months of November and December. In these cases the Authority found that adjustments were needed to bring the aid programmes into line with the EEA provisions on State aid.

In some cases, following discussions between the Authority and the EFTA States concerned, the national authorities preferred to modify their existing aid schemes on their own initiative rather than to act on the basis of proposals by the Authority. Such cases were then handled according to the procedures concerning new aid.

When assessing the existing aid schemes of the EFTA States, the Authority focused, inter alia, on aid considered particularly harmful to competition, such as general aid, i.e. aid granted on discretionary basis without clear award criteria, and aid to exports. It should be noted that all of the general aid schemes had either been eliminated or modified by the end of the year following the review procedure. Such schemes, which offer aid for investment to companies regardless of their size or regional location, were either restricted to areas eligible for regional aid and, outside such areas, to SMEs, or discontinued altogether. In this context, also the aid intensities were restricted to the applicable regional or SME aid ceilings. As regards aid to exports, which normally has a direct effect on competition and trade between the Contracting Parties, the Authority either proposed that the aid measures be amended in such a way that they comply with the rules on soft aid, or that they be abolished.

#### 4.7.3.2 Assessment of new aid

During 1994 the Authority received altogether 67 notifications from the EFTA States on plans to grant new aid or to alter existing aid. Two of the cases had to be treated as aid unlawful on procedural grounds as these were notified only after having been put into effect. In addition, the Authority registered six unnotified aid cases. When the EFTA States are looked at separately, the following figures emerge relative to notifications on new aid or modifications of existing aid: Austria 34, Finland 16, Norway 3 and Sweden 11. Iceland submitted no notifications on such plans.





The Authority decided upon a total of 46 State aid cases based on the notifications received. Full information on all State aid decisions where no objections were raised by the Authority is given in Annex IV indicating the title of the cases, the date of decision and the EFTA State concerned.

A total of 27 cases regarding Austrian, Finnish and Swedish aid were not finalized before the end of 1994 and were therefore transferred to the European Commission. At the end of the year there were no open cases as regards new aid plans in Iceland or Norway.

Out of the 46 decisions taken on new aid cases in 1994, the Authority in 40 cases decided not to raise objections to the aid measures notified by the national authorities. One case was closed due to inapplicability of Article 61(1). The Authority decided to close two cases where the EFTA States concerned withdrew their notification. The Authority also took one decision on the closure of a case due to the discontinuation of the scheme in question. Furthermore, one case was closed due to the fact that the application of the scheme notified was not covered by the EEA Agreement. Finally, one case was closed due to the fact that the scheme in question had been implemented prior to the EEA Agreement and, therefore, did not require authorization by the Authority under the procedure for assessment of new aid or alterations of existing aid. The contents of cases are described in more detail in the following section.

Throughout the year the handling of State aid cases demonstrated that it was a learning process for all parties concerned. In nearly all cases where the EFTA States notified new aid plans it was necessary for the Authority to request additional information before further assessment of the case could be made. Due to informal discussions between the Authority and the national authorities during the initial stages of case handling, it was possible to avoid the initiation of the formal investigation procedure. On several occasions, however, it seemed necessary to inform national authorities of notification obligations on the part of the EFTA States. During the 'package meetings' in capitals officials of the Authority, therefore, emphasized the fact that changes in existing aid schemes must be notified, also in cases where the criteria for the award of aid are being restricted.

The Authority received five complaints dealing with State aid granted by an EFTA State. With the exception of a complaint referred to below concerning State aid to the Norwegian salmon industry, all of the complaints were still being examined at the end of the year.

In February 1994, the Scottish Salmon Growers' Association Ltd (SSGA) lodged a complaint with the Authority and with the European Commission against alleged illegal State aid to the Norwegian salmon industry. Having examined the question of its competence with regard to State aid in the fisheries sector, the Authority concluded that it could not, due to lack of competence, take action in response to the complaint lodged by the SSGA. Consequently, in March, the case was closed and the complainant informed accordingly.

In April 1994, the SSGA lodged an application against the Authority with the EFTA Court, requesting that the Court annul the above measure.

#### **4.7.4 Major fields of activity**

##### **4.7.4.1 Regional aid**

###### ***Delimitation of assisted areas and maximum aid ceilings***

In the field of State aid, regional aid was a priority area for the Authority throughout 1994. Regional aid may be given in areas which satisfy certain objective socio-economic criteria. For areas deemed to be eligible for regional aid, a maximum investment aid ceiling has to be fixed. Such ceilings are differentiated according to the gravity of the regional problems. Taken together, the delimitation of areas eligible for regional aid and the aid ceilings constitute the map of assisted areas for a country.

With a view to assessing the degree of regional disadvantages in assisted areas, the Authority in January requested statistical information from the EFTA States. Based on the statistical information thus provided and information from other sources, the Authority established certain background indicators for application of the principles and common methods for assessing regional aid. By a decision taken in May the Authority established the thresholds for regional disparities related to the application of Article 61(3)(c) for regional aid.

The Authority also introduced certain amendments to the State Aid Guidelines concerning regional aid in the course of 1994, specifically by establishing the reference rates of interest for each



EFTA State and by introducing a new criterion for the application of Article 61(3)(c) to regions with a very low population density.

The maps of assisted areas eligible for regional investment aid in Austria, Finland, Norway and Sweden were authorized in the course of 1994. The Authority's decisions, based on proposals from the respective States, are described below. For Austria, Finland and Sweden, the Authority's decisions remain valid after accession to the EU. Before deciding upon the regional aid areas, the Authority undertook extensive discussions with national authorities, particularly with those from the three Nordic EFTA States, in order to settle the questions relating to the maximum aid ceilings foreseen for each assisted area. The geographical delimitation of the assisted areas reflected the discussions held between each EFTA State concerned and the European Union during the accession negotiations.

### ***Austria***

In May, the Authority decided not to raise objections to the proposed map of assisted areas eligible for regional investment aid in Austria. The assisted areas cover 35,2 % of the Austrian population. The map of assisted areas shall remain valid until the end of 1998.

Burgenland, covering 3,5 % of the population, qualifies for regional aid under Article 61(3)(a) as a poor region in the EEA context. The maximum aid intensities are 40 % net grant equivalent (NGE) in the northern parts and 30 % in the central and southern parts of the Land.

Areas covering 31,7 % of the Austrian population qualify for regional aid under Article 61(3)(c) of the EEA Agreement. The maximum aid intensities allowed for (c)-regions in Austria range from 15 % NGE to 20% and 25% in Obersteiermark-Ost, which suffers from severe structural problems and high unemployment.

### ***Finland***

In December, the Authority decided not to raise objections to the proposed map of assisted areas for Finland. The assisted areas, covering a total of 41,6 % of the Finnish population, qualify for regional aid only under Article 61(3)(c) of the EEA Agreement. The assisted areas in Finland are classified as either permanent assisted areas or structural change areas.

The permanent assisted areas, covering 31 % of the Finnish population, are divided into development zones I, II and III, covering 12,7 %, 12,8 % and 5,5 % respectively of the population. The maximum cumulative aid ceiling in development zone I is 35 % in gross terms (28,2 % NGE), while the maximum aid intensities for development zones II and III are 27 % (21,7 % NGE) and 20 % (16,1 % NGE) respectively. The map for these areas shall be valid until the end of 1997.

Structural change areas, covering 10,6% of the population, constitute temporary assisted areas which will remain valid until the end of 1995. These areas are suffering from problems due to major job losses and the decline of certain industries. The maximum aid intensity in these areas is the same as in development zone III, 20 % in gross terms (16,1 % NGE).

### ***Norway***

In November, the Authority decided not to raise objections to the proposed map of assisted areas for Norway. The map of assisted areas covers 25 % of the Norwegian population. The assisted areas are divided into target zones A, B and C. The map of areas eligible for regional investment aid shall be applicable until the end of 1997.

Target zone A, covering 2,2 % of the population, qualifies for regional aid under Article 61(3)(a) as a poor region in the EEA context. Zone A covers Finnmark and the northernmost four municipalities of Troms in northern Norway. The maximum aid intensity in zone A is 35 % NGE.

Target zones B and C, covering 22,8 % of the population, qualify for regional aid under Article 61(3)(c). The maximum aid intensities are 25 % NGE in target zone B and 15 % NGE in target zone C. Target zone B covers the major part of northern Norway plus remote and sparsely populated areas in southern Norway. Target zone C covers other assisted areas in southern Norway and the municipalities of Bodø and Tromsø in northern Norway.





## ***Sweden***

In December, the Authority decided not to raise objections to the proposed map of assisted areas for Sweden. The Swedish assisted areas, which all qualify for regional aid under Article 61(3)(c) of the EEA Agreement, are divided into three categories: a low population density area, a so-called 'target-6 area' and structural change areas. Combined, these areas cover 18,5 % of the Swedish population.

The low population density area covers the counties of Norrbotten, Västerbotten, Jämtland and Västernorrland, as well as certain municipalities within the counties of Gävleborg, Kopparberg, Värmland and Älvsborg. The target-6 area is a part of the low population density area and covers the most sparsely populated regions. The maximum aid limits are 25,6 % NGE in the target-6 area and 18,3 % NGE in the low population density area outside the target-6 area. The low population density area and the target-6 area shall be applicable until the end of 1999.

The temporary structural change areas, covering 4,5 % of the population, are regions suffering from problems due to major job losses and the decline of certain industries. The structural change areas shall be reviewed before the end of 1997. The maximum aid limit in these areas is 18,3 % NGE.

## ***Regional aid schemes***

Apart from authorizing the map of assisted areas in Austria, Finland, Norway and Sweden, the Authority also approved a number of regional aid schemes.

## ***Austria***

In May, the Authority authorized the new Economic Promotion Act of Burgenland, designated as an Article 61(3)(a) area eligible for regional aid. The act adjusts most of the aid awarded by the Land to EEA rules and has an annual budget of ATS 100 million. Two schemes under the Economic Promotion Act, authorized in June, set up the criteria for investment aid, environmental aid, aid to R & D and aid for other purposes which may be disbursed to enterprises located in the Land.

In July, the Authority decided to authorize an aid scheme promoting SMEs in the Land of Oberösterreich. The scheme also encourages enterprises regardless of their size to invest in the assisted areas of Oberösterreich. The scheme, valid for the period of 1994-1996, has a budget of ATS 100 million. In October, the Authority approved another aid scheme of the Land designed to promote the tourism sector. This scheme foresees aid for investment projects for hotels and pensions, restaurants as well as recreation facilities. In December, the Authority authorized the Euro-Economic Promotion Programme under which aid is given to material and immaterial investments of SMEs located or to be located in Oberösterreich.

The decision on regional aid areas in Austria linked nine regional aid schemes to the map of authorized assisted areas. As a result of the review of existing aid in Austria, the most important aid schemes on the Federal level are either limited to the regions and ceilings laid down in the decision on the map or restricted to SMEs.

## ***Finland***

In October, the Authority approved a change in the Finnish areas eligible for regional investment aid. The modification involved the restriction of the scope for granting such aid in areas of certain sub-regional units to SMEs only. The areas concerned are, therefore, no longer eligible for national investment aid on regional grounds. As a result of the change, the population coverage of assisted areas in Finland was reduced from 51 % to 41,6 %.

In December, the Authority authorized amendments of the regional transport subsidy schemes applicable in Finland and in the Åland islands. By virtue of the criteria for transport aid, the Finnish authorities have a transition period until the end of 1996 to bring the schemes into line with the rules on transport aid. The Authority, therefore, only assessed the amendments of the schemes, which, containing a limitation in time and not being more favourable than existing schemes in the relevant EFTA State, were found to be compatible with the EEA Agreement.



### **Norway**

In September, the Authority approved aid for restructuring of traditional Sami activities in four municipalities in Inner Finnmark under Article 61(3)(a). The decision concerned the application of higher aid intensities under two existing regional aid schemes. The aid for restructuring of traditional Sami activities is part of a broad restructuring programme established to prepare the ground for alternative industrial activities due to the severe crisis in reindeer breeding.

### **Sweden**

In December, the Authority approved a number of regional aid schemes in Sweden which the Swedish authorities had proposed to be amended in relation to a Government Bill on regional policy presented to the Swedish Parliament earlier in the year. The amendments involved, inter alia, adjustments following the Authority's review of these schemes, in order to ensure full compatibility with the EEA provisions on State aid. For some of the schemes the amendments foresaw an increase of the overall annual budget appropriations. Other changes resulted from adjustments of the geographical areas to which the schemes are applied.

## **4.7.4.2 Aid for research and development**

### **Main developments**

In 1994 the EFTA States submitted information on 90 existing aid schemes promoting research and development (R&D). R&D was indicated as a primary objective for a total of 50 schemes while in the case of the other 40 schemes R&D activities were cited amongst secondary objectives.

A total of 19 existing R&D aid schemes in the EFTA States were affected by appropriate measures proposed by the Authority. The main features tackled by the Authority in these decisions can be summarized as follows. Firstly, the Authority identified problems such as a lack of clear and legally binding guidelines in some of the existing aid schemes promoting research and development. Secondly, the Authority noted that the purpose for which aid can be given was formulated in the legislation in too general a manner. Furthermore, in some cases the definition of eligible R&D activities was lacking or not in conformity with the rules on aid to R&D. This was true also for the definition of eligible costs. Moreover, the aid intensities were too high or the rules thereon too flexible or not clearly related to the different categories of R&D activities. The distinction between investment aid and R&D aid also remained unclear in some cases. Finally, the Authority demanded that reporting obligations be introduced to a number of existing R&D aid schemes.

The Authority received altogether seven notifications on plans to grant or alter aid promoting research and development. None of the notified R&D aid schemes or cases were considered to promote the execution of an important project of common European interest to an extent which would have made them qualify for the exemption provided for in Article 61(3)(b) of the EEA Agreement. The R&D aid measures were, therefore, authorized under Article 61(3)(c) due to the fact that they facilitate the development of certain economic activities. These are described in more detail below.

### **Austria**

An individual award of R&D aid to iR3 Video International GmbH, Vienna, a wholly owned subsidiary of österreichische Philips Industries GmbH, Vienna, was granted authorization by the Authority in September. The project involves applied research in the field of digital video technology and product and process development of VHS/SVHS video technology. The project will be finalized by the end of 1995 at a total cost of ATS 2,564 million, of which ATS 986 million is eligible for State aid. The maximum total amount of aid in support of the project is ATS 225 million. The level of intensity allowed is 25 % for applied research while an aid intensity of 15 % is foreseen for product and process development. The project does not involve basic industrial research.

### **Finland**

In October, the Authority authorized modifications of existing aid schemes on grants and soft loans for industrial research and development in Finland in order to make them compatible with the EEA Agreement. The aim of the aid measures, administered by the Technology Development Centre





(TEKES), is to promote R&D activities in order to develop internationally competitive products, production processes and services. The maximum aid intensities foreseen for basic industrial research is 50 % of the eligible costs while aid given to finance applied research and development can cover up to 25 % of the costs. For SMEs the aid can be 10 percentage points higher.

In December, the Authority authorized another Finnish R&D aid scheme under which aid promoting energy technology research is granted according to the same criteria as in the above-mentioned scheme.

### ***Sweden***

In December, the Authority approved, under Article 61(3)(c), a one-off grant to a research and development project in the field of hydropower technology carried out by a foundation established by Vattenfall AB, ABB Generation AB and Kvärner Turbin AB. The foundation will be located in Porjus, Municipality of Jokkmokk in the County of Norrbotten.

The aid is awarded in the form of a direct grant of SEK 16,5 million to cover investment in buildings, equipment and instruments in the R&D facilities of a centre for education and development of hydropower technology. The R&D activities will cover both basic industrial research and applied research and development. The maximum intensity of the investment aid will be 24,6 %.

#### **4.7.4.3 Sectoral aid**

##### ***Aid to the motor vehicle industry***

### ***Austria***

In May, the Authority authorized an aid award to BMW Motoren Gesellschaft mbH in support of an R&D and investment project at its engine plant in Steyr, Austria. The Austrian authorities had submitted information on the case to the European Commission under the Free Trade Agreement between Austria and the EC. The case was, however, transferred to the Authority, which following the entry into force of the EEA Agreement became competent to handle the case.

The project involved research, process and product development in the area of diesel and petrol engine technology, with the aim of reducing fuel consumption and carbon emission levels, together with measures to enhance environmental protection at the plant and for the training of employees. The overall cost of the project, which will be realized over a period of three years, is estimated at ATS 3,397 million, of which ATS 2,856 million is eligible for State aid. The aid amount, totalling ATS 455 million, will be awarded in the form of a grant.

An aid award of ATS 210 million is foreseen to finance R&D expenditures of the project while ATS 48 million is to be allocated towards environmental protection measures and ATS 24 million for training of employees. ATS 173 million will be used to finance the regional investment part of the project, totalling ATS 1,781 million. This amounts to a gross grant equivalent of 8,9 %. In approving the aid, the Authority assessed the regional development benefits against possible adverse effects on the sector as a whole, such as the creation of significant over capacity. An analysis was undertaken to establish the net regional disadvantages that the company faced by investing in the assisted area of Steyr-Kirchdorf (Oberösterreich). These disadvantages were found to be proportional to the proposed regional aid. Furthermore, as the modest capacity expansion resulting from the investment will be used exclusively to supply BMW's new assembly plant in the USA, the aid was deemed not to lead to the creation of over capacity on the European level. For these reasons, the aid was found to be compatible with the criteria laid down in the rules on State aid to the motor vehicle industry.

### ***Finland***

In November, the Authority decided upon State guarantees given for loans by Oy Sisu-Auto Ab, a majority State-owned company manufacturing, inter alia, military vehicles, terminal tractors and special purpose motor vehicles. The loans were to cover the financing of the acquisition of certain divisions from Valmet Oy, a limited liability company which is under majority State ownership and listed on the Helsinki stock exchange. An assessment of the terms and conditions of the proposed State guarantees led to the conclusion that the State in this case could be considered as acting as a private investor operating under normal market economy conditions. In the view of the Authority,



therefore, the guarantees given by the State in respect of Oy Sisu-Auto Ab did not constitute a financial benefit to the company.

### ***Aid to the steel industry***

#### ***Finland***

In December, the Authority authorized aid to Imatra Steel Oy Ab in support of investments the company must make for environmental protection purposes in order to bring the Imatra steel plant into line with new mandatory environmental standards. The Imatra plant is an old plant on which new mandatory air protection standards became binding through a decision in 1993. Given that the products of the company fall under those covered by Protocol 14 of the EEA Agreement, the aid was assessed by the Authority under the Community Steel Aid Code. The overall cost of the project, which involves the modernization of the smelting process and the recovery and filtering of flue gases, amounts to FIM 150 million, of which FIM 71 million relates directly to the environmental requirements. Only this latter cost category, not the production investment cost, was eligible for aid. The Authority approved the aid of FIM 5,3 million under Article 3 of the Code, as it aims at bringing an existing plant into line with new statutory environmental standards and as the total amount of aid remains below the ceiling of the investments directly related to the environmental measures concerned. The capacity of the plant will not increase as a result of the investment.

#### **4.7.4.4 Aid to SMEs and aid for other purposes**

#### ***Austria***

In November, the Authority authorized aid aimed at improving the processing and marketing conditions for the food and beverages industry in Austria. The purpose of the aid is to smooth the adjustment of the sector to the expected increased competition due to the participation in the EEA Agreement and accession to the EU. The maximum aid intensity under the two schemes concerned, the «Top-Eurofit»-programme and an amendment to the «Scheme under the Business Structure Improvement Act», is fixed at 11 % in gross terms. In cases of cumulation with aid from other public sources the cumulated aid intensity may go up to 20 % gross.

In December, the Authority approved a prolongation and modification of the aid scheme under the Business Structure Improvement Act and the principles of the new agreements between the Federal State and Austrian Länder for regional top-ups to be awarded under the scheme. The scheme, with a budget of ATS 470 million for 1994, foresees investment aid for SMEs regardless of their location and business sector.

An aid scheme providing investment aid to SMEs throughout Austria and to big firms in assisted areas was authorized by the Authority in December. Operated under the Austrian Labour Market Promotion Act, the scheme also foresees rescue and restructuring aid for enterprises under certain conditions found compatible with the State aid rules. The scheme shall be valid until the end of 1997.

In December, the Authority also authorized a new guarantee facility by the FGG/East-West Fund designed at reducing commercial risks related to equity investments in countries in transition to a market economy. Aid is also given to the co-financing of investment with international finance arrangements such as the JOPP-Phare Programme, which is part of the EU's initiatives supporting the process of economic transformation in Central and Eastern Europe.

Apart from proposing adjustments to Austrian aid schemes by restricting their application to assisted areas, in December the Authority also proposed to Austria to amend a number of her existing schemes, due to the lack of an appropriate SME definition in the rules of the schemes or due to conditions on which aid was granted not being compatible with the SME aid rules.

#### ***Finland***

During 1994 the Authority authorized a number of aid schemes promoting SMEs in Finland, including schemes administered by the Finnish Guarantee Board. The latter schemes involved aid measures whereby the long-term viability of highly indebted SMEs is safeguarded through a consolidation of their bank credits and whereby SMEs with good growth prospects engaged in the early stages of innovation activities or in the application of new production technology are promoted. Other





schemes involved temporary investment aid to SMEs and soft aid covering management advice and help by outside consultants to SMEs.

In December, the Authority authorized an amendment of an existing aid scheme promoting internationalization of Finnish businesses. The changes made the aid scheme compatible with the aid rules covering soft aid for consultancy help, training and the dissemination of knowledge as well as for measures on export promotion. The purposes for which aid is given include, inter alia, support for attending seminars abroad or participation in fairs and exhibitions as well as the use of consultants for advice, market research and feasibility studies. Operating costs cannot be aided under the scheme.

The Authority also decided to authorize two aid schemes promoting employment of the young in Finland. These involved aid measures designed to improve the possibilities of young persons to be employed, after graduation from a vocational training institute or from university, in jobs that correspond to their education. Furthermore, the Authority approved a scheme aimed at increasing the opportunities of the young unemployed for apprenticeship training.

In December, the Authority proposed amendments to an existing aid scheme on energy grants. Having found that the purposes for which aid is given under the scheme were formulated in the legislation in a very general or non-transparent manner, the Authority proposed that aid given to energy conservation, renewable energy and non-renewable energy as well as to R&D activities be modified in such a way that it complies with the relevant aid rules.

### ***Norway***

In July, the Authority approved a Government grant to finance part of the general operating costs of the Norwegian Trade Council. The Trade Council is a specialized service agency which provides, inter alia, services to enterprises such as consultancy help and training, against payment or free of charge. The grant is primarily directed towards the provision of a general support and information infrastructure. Such aid cannot be used to provide any kind of direct financial support to enterprises. However, the grant was found to constitute aid as it could not be ruled out that certain enterprises might be favoured by the provision of certain services at a reduced cost. The aid was justified in view of its beneficial effects on SMEs.

In November and December, the Authority proposed appropriate measures to Norway concerning certain existing aid schemes in order to make them compatible with the EEA Agreement. The appropriate measures proposed to Norway addressed the need to increase transparency and to facilitate State aid control by establishing more specific guidelines for the granting of aid for R&D activities and for environmental protection purposes. The decisions focused also on the need to establish specific conditions for granting aid to SMEs in order to ensure a homogenous application of the rules on State aid within the EEA.

### ***Sweden***

In June, the Authority approved an aid scheme introduced as a temporary measure designed to reduce unemployment by promoting investment projects of small companies. The scheme will be applied during the financial year starting in July 1994 and ending in June 1995, and has a budget of SEK 800 million. Aid is given in the form of a grant with a maximum aid intensity of 15 % of the investment costs in gross terms. Only investments where the total eligible capital expenditure does not exceed SEK 20 million will be supported. Sensitive industrial sectors such as steel, motor vehicle and synthetic fibres are excluded from the scheme.

In December, the Authority proposed to Sweden to adjust an existing aid scheme to ensure consistency with the EEA rules on aid for R&D and on aid to SMEs, particularly as regards soft aid. The required amendments relate to clarifying the objectives of the scheme, reducing aid intensities and restricting the cost categories eligible for support under the scheme.



## **4.8 MONOPOLIES**

### **4.8.1 Alcohol monopolies**

The EFTA States parties to the EEA Agreement have committed themselves, under Article 16 EEA, to ensure that any State monopoly of a commercial character be adjusted so that no discrimination regarding the conditions under which goods are procured and marketed will exist between nationals of States parties to the EEA Agreement.

Immediately after the entry into force of the EEA Agreement, EFTA States were asked to provide information on their commercial monopolies by mid-February 1994. This request especially emphasized the alcohol monopolies. Numerous discussions with national authorities, including visits to the EFTA capitals, took place during the first half of the year. The information on the legislation provided by the EFTA States and measures taken to implement the provisions on State monopolies of the EEA Agreement had to be assessed. A working group was therefore set up, which concentrated on the various alcohol monopolies in the EFTA States.

The working group noted that in several EFTA States, legislation provided for exclusive rights to import, export and wholesale trade of alcoholic beverages. Such exclusive rights are clearly contrary to Articles 11, 13 and 16 EEA. Since no transition period is provided for in the EEA Agreement, the Authority initiated infringement proceedings under Article 31 of the Surveillance and Court Agreement. By the end of July, letters of formal notice were sent to the Governments of Finland, Iceland, Norway and Sweden.

Free movement of goods and the non-discrimination principle imply competition in the import of goods from other States parties to the Agreement. Purchasers should not be deprived of their right to procure the goods of their choice from suppliers in other EEA States without being supervised or influenced by a State monopoly. The suppliers of all EEA States should likewise be allowed to make use of their right to offer their products all over the territory covered by the EEA Agreement without any influence exercised by the monopoly. The same reasoning applies *mutatis mutandis* to exclusive export rights. Also, an exclusive right to wholesale trade can in practice have the same effect as an exclusive import right, as the importer cannot act independently of the monopoly.

With regard to exclusive rights on marketing at the retail level, the Authority considers that such exclusive rights may only be maintained if discrimination with regard to the origin of the goods marketed is excluded, and if no institutional links exist between producers and the retail monopoly.

Finland and Sweden reported that a bill on new alcohol legislation was presented to Parliament providing for the abolition of exclusive import, export, wholesale and production rights. On the basis of these replies, and in the light of the announced entry into force, the Authority considered that it would not be justified in taking further legal steps in the course of the year.

The Norwegian and Icelandic Governments took the view that their alcohol monopolies meet the requirements of the EEA Agreement and, consequently, denied any infringement.

In November, the Icelandic Government informed the Authority that bills amending the alcohol legislation were being drafted with the aim of abolishing the exclusive right to import and wholesale of alcoholic beverages and would shortly be introduced to the Parliament.

In December, the Authority delivered a reasoned opinion to the Norwegian Government.

Several complaints received by the Authority dealt with the question of alcohol monopolies. Most of the issues raised by the complainants with regard to alcohol monopolies have been or will be addressed in the course of the Authority's own initiative cases as described above.

### **4.8.2 Gaming and amusement machine monopolies**

Three complaints were lodged with the Authority against the exclusive right given to the Slot Machine Association (RAY) in Finland to maintain amusement machines for use. This right prevented the complainants from taking advantage of the EEA rules on the right of establishment and freedom to provide services with regard to amusement machines which are used for pure entertainment purposes. Two of the complaints were also seeking to open the wider market of gaming machines and gambling.





In order to deal with the cases consistently, the Authority commissioned a consultant study on the situation in the gaming and amusement machines markets in all the EFTA States. The study also analysed the market arrangements in the light of the provisions of the EEA Agreement and the relevant case law of the Court of Justice of the European Communities. The study concluded that the gaming market is regulated in varying degrees in all EFTA countries while it was only in Finland that also the amusement machine market was restricted by a monopoly.

In contacts with the Finnish Government the Government accepted, inter alia, that social threats linked to amusement-game activities could be prevented by less drastic means than exclusive rights. Therefore, the legislation governing the amusement machine business was to be changed with effect from Winter 1995. The proposed legislation was expected to terminate RAY's exclusive right to the maintenance of amusement machines for use. Following the reform, the right to maintain entertainment machines for use would be extended to persons and organizations entitled to engage in business in Finland.

As the foreseen changes of the legislation did not materialize according to the announced schedule, the Authority on 30 December 1994, pursuant to Article 59 (3) of the EEA Agreement, adopted a decision on the exclusive rights covering amusement machines business in Finland. In its decision the Authority considered the amusement machine activities and actual gaming machine activities as being of different nature. Gaming machines may yield prizes in cash or money value whereas amusement machines are pure entertainment which yield no material prize. The amusement machine service market was to be considered neighbouring on but yet separate from the actual gaming machine service market. The Authority took the view that considerations which may be capable of justifying the maintenance of exclusive rights in the actual gambling activities are not applicable as regards amusement machine activities. Thus the Finnish legislation on Amusement Machines was considered incompatible with Article 59 in conjunction with Articles 31 and 36 of the EEA Agreement.

## **4.9 COMPETITION RULES APPLICABLE TO UNDERTAKINGS**

### **4.9.1 The importance of anti-trust rules**

The EEA Agreement aims at the creation of a «level playing field», where goods and services, persons and capital can move freely and economic operators can pursue their activities without competition being distorted. Artificial impediments to free trade and effective competition may result either from measures taken by States or from restrictive practices by undertakings. The competition rules applicable to undertakings aim at eliminating the latter kind of threats against the four freedoms and the homogeneous economic area.

Thus, whereas most of the Authority's activities relate to the EFTA States, the competition rules contained in Articles 53 to 58 and 60 of the EEA Agreement concern individual economic operators. Article 59 - on public undertakings - on the other hand relates to measures taken by States.

These provisions, often referred to as anti-trust rules, are in practice virtually the same in the EEA Agreement as in the Community Treaties. The corner-stones of the European competition regime, reflected in Articles 53, 54 and 57 respectively, are three:

- a prohibition of agreements and practices which may distort or restrict competition, e.g. price fixing or market sharing agreements between competing companies,
- a prohibition of the abuse of a dominant market position by undertakings,
- the control of large mergers and other concentrations of undertakings, which may create or strengthen a dominant position and consequently impede effective competition.

The responsibility for handling competition cases under the EEA Agreement is shared between the Authority and the European Commission in accordance with attribution rules contained in Articles 56 and 57 EEA. Cases dealt with by the Authority may concern undertakings located not only in the EFTA States, but also in EC Member States or third countries.

In competition cases one of the roles of the Authority is to put an end to an infringement through a formal decision directed at the individual undertaking - possibly including sanctions. This is done either upon the Authority's own initiative (ex officio cases) or upon application by an interested party (a so-called complaint).





Further, the Authority is competent to grant exemptions from the prohibition against restrictive agreements in Article 53(1). In order to be able to apply for such exemption the undertaking concerned must notify the agreement in question. Notified agreements benefit from immunity from fines in respect of acts taking place during the period from the date of notification until the decision by the Authority to grant or reject an individual exemption.

Undertakings may also apply for negative clearance, i.e. a statement by the Authority certifying that there are no grounds for action under Articles 53(1) or 54 in respect of an agreement, decision or practice. Decisions by the Authority in competition cases may be challenged before the EFTA Court.

The application of European anti-trust rules will often directly benefit the consumers whose free choice of goods and services may be limited through restrictive practices. The enforcement of these rules may have equal importance for undertakings in trade and industry, protecting them from anti-competitive behaviour by other actors in the market.

Consequently, in the field of competition the focus of the Authority's attention is on the handling of individual cases. Other important tasks include implementation control, i.e. ensuring that the relevant provisions are in place in the national legal orders of the EFTA States, issuing notices and guidelines for the interpretation of the competition rules, and co-operation with the European Commission regarding individual cases and general policy issues. Most of these activities also involve close co-operation with national authorities.

#### 4.9.2 Cases

The competition rules in the EEA Agreement entered into force on 1 January 1994. However, during the first half year, transitional provisions postponed the applicability of Article 53(1) concerning agreements which were already in existence on that date. During this transition period, undertakings were entitled to discontinue or modify such «old» agreements in order to bring possible infringements to an end. They could also notify their agreements and apply for individual exemptions, thereby receiving immunity from possible fines. As a result, the majority of the cases were opened at the end of the transition period.

From 1 January to 31 December 1994, 115 competition cases were opened. All the cases except two were handled under the normal procedures relating to Articles 53 and 54 EEA, or under the specific procedures in the transport field. The special procedures for coal and steel products, laid down in Protocol 25 to the EEA Agreement, were applied in two cases and in another two cases these rules were applied in parallel with the normal procedures of «53/54 cases». No case relating to the control of concentrations under Article 57 EEA, which fell under the Authority's competence, was notified during the period.

Out of the 115 cases, 103 were opened as a result of a notification/application, eight on the basis of a formal complaint, and four ex officio. Three of these cases were closed informally by means of administrative letters (comfort letters), and one case through the opposition procedure laid down in one of the block exemption regulations listed in Annex XIV to the EEA Agreement. Two notifications were withdrawn. One case was transferred to the European Commission as a consequence of the rules on division of competence between the commission and the Authority. In four cases a Statement of Objections was issued to the parties, i.e. as the first procedural step towards an adverse decision. In three cases so-called 19(3) Notices, inviting third parties to comment, were decided upon. One inspection was carried out by the Authority, and in one other case the Authority requested the Commission to perform such an inspection.

The cases concerned a wide variety of services and products, from insurance to cement, and related mainly to activities within the EFTA States. As to the origin of the cases, or the EFTA State mainly affected, around one third of the cases were Norwegian, approximately one fourth were Austrian and, respectively, Swedish, and less than 10 % were Finnish. No case originated in Iceland. The national distribution does not, however, necessarily reflect the existence and extent of restrictive practices in the different EFTA States.

Cases which were not finalized before the end of 1994 and which, as a consequence of the accession of Austria, Finland and Sweden to the European Union, fall under the competence of the European Commission, are to be transferred in accordance with Article 172 of the Accession Treaty. Around two thirds of the cases were to be transmitted to the Commission in this manner, leaving the Authority with some 35 pending cases.





### ***Developments in priority areas***

As indicated above, the total number of competition cases handled in 1994 amounted to 115. Due to the transition period during the first half of 1994, allowing undertakings to adjust agreements or notify them with a view to obtaining individual exemptions, the bulk of externally initiated cases was received during the months of June and July.

In order to make most efficient use of the Authority's resources in the competition area, the cases were given different priorities following a preliminary assessment of their importance. Activities were concentrated on cases of highest priority. Cases with lower priority were pursued to the extent that this did not conflict with the proceedings related to high-priority cases.

The following criteria were taken into account when setting priorities:

- the general impact of the restrictive practices on the economy of EEA States,
- the nature and severity of infringements,
- the specific effects for consumers or third parties of the restrictive practices,
- whether the objectives of the application of competition rules could be better achieved on the EEA level than on the national level,
- the legitimate interest of notifying parties or complainants to receive a fast indication on the compatibility of a practice with the EEA competition rules.

Out of the 115 cases handled in 1994, around 20 were treated with highest priority. These included cases in the forestry industry, in the construction sector (notably in the cement industry), and in the pharmaceutical, petroleum and electricity sectors, some of which are described below.

### ***Austrian cartels***

Under Austrian law, cartels may be allowed to operate after authorization by the Austrian Cartel Court. The Court focuses mainly on a cartel's economic justification when giving its authorization. If approved, the cartel is entered into a public register.

A number of these registered cartels were notified to the Authority before the end of June 1994. These notifications mainly related to cartels between companies located in Austria in the pharmaceutical, construction and construction-related sectors.

Typical features of these agreements were production and/or delivery quotas aiming at market sharing for the product in question. In addition, some agreements provided for an exchange of information system to monitor quotas and to facilitate co-ordination of the parties' behaviour. Several agreements also contained provisions for fixing prices and/or other trading conditions. Arrangements of this kind were generally considered to constitute a violation of Article 53(1) EEA, provided there was an effect on trade between Contracting Parties to the EEA Agreement.

The notified arrangements only related to the participating companies' behaviour on the Austrian market. It was therefore argued that since the agreements did not apply to import and export, trade between Contracting Parties was not affected and that, consequently, Article 53(1) was inapplicable. Where, however, the participating companies' domestic market shares indicated that they had a near-monopoly or a dominant position, the Authority generally took the view that the arrangements in question did have repercussions outside Austria.

Such arrangements may reinforce the compartmentalization of markets on a national basis, thereby holding up the economic interpenetration which the EEA Agreement is attempting to bring about. In addition, they may protect domestic production and make entry into the Austrian market more difficult. As a result, the notified cartels were normally viewed as having an effect on trade between EEA States and did not, in their original form, merit an exemption under Article 53(3).

In some cases, after consultations with the Authority, the parties announced their willingness to amend their agreements in order to meet the requirements for an exemption. With regard to one arrangement, the parties informed the Authority that the cartel would be abolished.



### **Timber**

Markets for roundwood have in several EFTA States been characterized by centralized agreements on prices, market sharing and quota systems. The forest industries depending on such markets are of major importance for the economies of these countries. During 1994, the Authority gave priority to scrutinizing agreements relating to the functioning of these markets, in order to assess their compatibility with the competition rules.

On 20 July 1994, the Authority initiated a procedure under Article 53 EEA in respect of a notification of an agreement between the Finnish Forest Industries Federation and the Finnish Central Union of Agricultural and Forestry Producers (MTK). This was based on a preliminary examination which indicated that the notified agreement constituted a price cartel and a regional market sharing agreement. These are explicitly prohibited under Article 53(1) EEA and may not be exempted under Article 53(3). The Federation, which had notified the agreement, was formally informed about these objections, and about the Authority's intention to revoke the immunity from fines under Article 15(6) of Chapter 2 of Protocol 4 to the Surveillance and Court Agreement.

Buyers and sellers of roundwood in Finland had at least since 1978 agreed on prices and deliveries by means of centralised price recommendation agreements. However, this practice was abolished for a period of three years, from spring 1991 until March 1994, when the notified agreement was entered into. During this period the roundwood market was based on free competition, but, as wood prices started to increase slowly in 1993, expectations by the forest owners for additional price increases made them postpone felling of wood, and deliveries to the industry were disturbed. There was a lack of confidence on the market which created the disturbances and the parties deemed it necessary to enter into the notified agreement, setting target prices and regional bonus systems.

When realizing that the agreement was incompatible with the competition rules of the EEA Agreement, and after consultations with the Authority, the parties in November 1994 submitted a new agreement on long term development of elements of competition in roundwood trade, together with a Letter of intent to improve the functioning of the roundwood market and to increase competition gradually. Under this new agreement, the parties cancelled the agreement originally notified and other decisions taken in connection with that agreement. Provisions in the original agreement determining average price levels and regional bonus prices were, however, to remain in force until 28 February 1995. The new system does not contain any restrictions as regards prices for individual sales, but allows for an information exchange of a general nature as regards the development of market prices.

On 1 December 1994 the Authority issued a 19(3) Notice, making known its intention to take a favourable view of the new agreement and inviting interested parties to send their comments. The continued analysis of whether a favourable view could eventually be adopted will take into account the comments received.

### **Electricity**

In the electricity sector, a number of agreements were notified in July 1994 by the major Swedish electricity producers. These producers had since the 1970's operated an organization called KSN (Kraftindustrins samarbetsorgan för Samkörning med Norge) to co-ordinate sales and purchases of electricity to and from Norway.

The Authority found, after examining the facts of the case, that co-operation within KSN - in particular with regard to elements of price fixing and the co-ordination of the behaviour by the major Swedish operators on the Norwegian market - constituted an infringement of the EEA competition rules. Particular emphasis was put on the fact that Norway's electricity market was liberalized and open to competition, and that the co-ordination of trade by all major Swedish electricity producers might jeopardize the proper functioning of this market.

A Statement of Objections, in which the Authority stated its intention to take a negative decision in the case, was forwarded to the parties. The parties subsequently informed the Authority that the notified co-operation within KSN would be terminated by the end of 1994.

### **Service stations**

In June and July 1994, the Authority received notifications of service station agreements from several Austrian subsidiaries of oil companies with well known brands. Service station agreements are long-





term exclusive purchasing agreements, meaning that the owners of filling stations are obliged to purchase motor vehicle fuels and other products from only one oil company.

Provided that such agreements fulfil certain criteria they are exempted from EEA and EC competition rules by virtue of a block exemption. However, the restrictions on competition in the notified agreements went considerably beyond those possible to exempt according to the block exemption<sup>(19)</sup>. The agreements typically contained one or more unacceptable features, such as excessive duration, too broad a scope as regards the tied products and elements of price fixing for lubricants and related products.

Given that these agreements were part of a network of similar agreements by oil companies active on the Austrian market, and that the Austrian market for retailing of motor vehicle fuels and related products was governed almost wholly by exclusive purchasing arrangements, the agreements contribute to a significant foreclosure of the market. In the light of the Commission's practice and the case law of the Court of Justice of the European Communities<sup>(20)</sup>, the Authority concluded in its preliminary analysis that the agreements fell under Article 53(1) and that the conditions for an individual exemption appeared not to be met.

A «warning letter» was therefore sent to the companies involved, informing them of this preliminary analysis, of possible further procedural steps by the competent surveillance authority, and of possible civil law consequences in the event that the agreements were not brought in line. Furthermore, it was indicated that for old agreements notified before 1 July 1994, which under the transitional rules would be considered to be provisionally valid, the letter could be assumed to end this provisional validity. In a subsequent press release (PR(94)30) the Authority also made the point that other companies in Austria or in other EFTA States might have similar agreements which had not been notified.

#### 4.9.3 Implementation control

One of the tasks of the Authority is to ensure that the EEA competition rules are made part of the national legal orders of the EFTA States. This includes not only the basic rules in Articles 53 to 60 EEA, but also the relevant provisions in Protocols 21 to 25 to the EEA Agreement, the acts referred to in Annex XIV to that Agreement (such as the substantive rules on merger control and on the application of the competition rules in the transport sector as well as the acts corresponding to the Community block exemption regulations), and the procedural rules in Protocol 4 to the Surveillance and Court Agreement. Consequently, the amendments made in the Interim Package, which entered into force on 1 July 1994, were also checked in this context. In the competition field, the latter related mainly to additional or amended block exemption regulations.

Implementation control involved analysis of the relevant national legal acts and contacts with the competent national administrations. The examination revealed that the competition rules had been implemented, albeit in different ways depending on whether the EFTA State in question followed a monist or dualist tradition as regards international agreements. In Austria the competition rules had become part of the national legal order with the entry into force of the EEA Agreement and the Surveillance and Court Agreement, whereas in the Nordic EFTA States the relevant rules had been made part of the national legal orders through separate national legislative measures.

Of particular significance for the practical application of the competition rules are the measures taken by the EFTA States to afford the necessary assistance to officials of the Authority when carrying out an on-the-spot investigation ordered by decision, and the undertaking concerned opposes the investigation. Article 14(7), Chapter II, Protocol 4 of the Surveillance and Court Agreement obliges the EFTA States, after consultation with the Authority, to take the necessary measures to this end within six months of the entry into force of the EEA Agreement. These measures vary between the different EFTA States. In some States they involve requiring the assistance of the police or the enforcement service whereas in others they involve obtaining a court order. The Authority found no reason to object to the measures taken, and the consultations were accordingly finalized.

(19) Act referred to in point B.3 of Annex XIV to the EEA Agreement on the application of Article 85(3) to categories of exclusive purchasing agreements (Commission Regulation No 1984/83)

(20) *S. Delimitis v. Henninger Bräu AG* (C-234/89), [1991] ECR I 935



#### 4.9.4 Non-binding acts

According to points 16 to 25 of Annex XIV to the EEA Agreement the Authority shall take due account of the principles and rules contained in the acts there listed when applying the EEA competition rules. The acts listed are notices and guidelines issued by the European Commission concerning the interpretation and application of various parts of EC competition legislation.

Through Article 25(2) of the Surveillance and Court Agreement, the Authority is given the power and obligation to adopt acts corresponding to the ones listed in Annex XIV. This obligation has its basis in Article 5(1)(b), stating that the EFTA Surveillance Authority shall, in accordance with EEA legislation and in order to ensure the proper functioning of the EEA Agreement, ensure the application of the EEA competition rules.

As a consequence, ten notices corresponding to those referred to in the Surveillance and Court Agreement and in Annex XIV EEA were adopted in January 1994. They were published in the EEA Supplement to the Official Journal of the European Communities on 18 June 1994<sup>(21)</sup>. The ten notices and guidelines issued by the Authority correspond to those issued by the Commission. Among others, they include the notice on agreements of minor importance and the notices on exclusive distribution agreements and exclusive purchasing agreements.

The Commission has adopted notices after the signing of the EEA Agreement which are not included in the lists referred to. In order to maintain equal conditions of competition there is an obligation on the Authority to adopt acts corresponding to such acts when EEA relevant.

Consequently, three new notices were adopted in April 1994 and published in the Official Journal on 21 July 1994<sup>(22)</sup>. The notices concern the assessment of co-operative joint ventures pursuant to Article 53 EEA, clarification of the activities of motor vehicle intermediaries, and modification of the notices on exclusive distribution and exclusive purchasing agreements.

##### ***Notice on co-operation with national courts***

In November 1994 the Authority adopted a notice on co-operation between national courts in the EFTA States and the Authority in applying Articles 53 and 54 EEA. The notice corresponds to the notice issued by the European Commission in February 1992 on co-operation between national courts and the Commission in applying Articles 85 and 86 of the EC Treaty.

The Court of Justice of the European Communities in its Delimitis judgement held that, under Article 5 of the EC Treaty, the Commission has a duty of sincere co-operation vis-à-vis national courts of the Community Member States. The Authority considers that, by virtue of Article 3 of the EEA Agreement and Article 2 of the Surveillance and Court Agreement, both of which essentially reproduce the text of Article 5 of the EC Treaty, it is under a similar obligation of sincere co-operation vis-à-vis national courts of the EFTA States. Further it is of the opinion that such co-operation can be an important factor in ensuring an effective and consistent application of the EEA competition rules.

The notice provides a framework for the co-operation between the national courts and the Authority. In the notice the Authority offers to assist national courts by providing, within the limits set out in the notice, information of the following kind:

- First, national courts may ask the Authority for information of a procedural nature, such as whether a certain case is pending before the Authority, whether a case has been the subject of a notification, whether the Authority has officially initiated a procedure or whether it has already taken a position through an official decision or a comfort letter.
- Secondly, national courts may ask the Authority for legal information of a general nature.
- Thirdly, national courts may obtain information from the Authority regarding factual data: statistics, market studies and economic analysis.

The Authority believes that the notice and the co-operation procedures proposed therein, without affecting the right to request an advisory opinion of the EFTA Court in accordance with Article 34 of the Surveillance and Court Agreement, may be helpful to national courts in the EFTA States by

(21) OJ of 18 June 1994 No L 153, p. 1.

(22) OJ of 21 July 1994 No L 186, p.57.





assisting them in performing their judicial functions. The notice will be published in the EEA Section of and the EEA Supplement to the Official Journal.

#### **4.9.5 Co-operation with the European Commission**

The EEA Agreement emphasizes the need for close and constant co-operation between the Authority and the Commission in order to develop and maintain a uniform application and enforcement of the EEA competition rules. In order to provide a «level playing field» for the economic operators, not only the rules themselves must be equal but they must also be applied in such a way that the undertakings' legitimate demands for legal certainty, efficient handling and foreseeability are met in all parts of the EEA.

Therefore, Article 109(2) EEA calls for co-operation, exchanges of information and consultations between the two surveillance authorities with regard to general policy issues and the handling of individual cases. A special rule on co-operation in the competition field is laid down in Article 58 EEA and detailed co-operation rules are contained in Protocols 23 and 24.

##### ***Co-operation in the handling of individual cases***

The Commission and the Authority co-operate in the handling of individual cases which affect both EFTA and Community countries, the so-called «mixed cases». In these cases, both authorities submit to each other copies of notifications and complaints and inform each other about the opening of ex officio procedures. The authority which is not competent to deal with the case may at any stage of the proceedings make any observations it considers appropriate. The Authority forwarded copies to the Commission for comments in 85 of the cases received in 1994. During the same time, the Authority received copies of 130 notifications and complaints addressed to the Commission. These cases were analysed by the Authority and, where appropriate, comments or factual information relating to the case in question were submitted.

Inter alia, the Authority gave its view to the Commission in the *Sammelrevers* case, a notification concerning a group of vertical agreements between publishers in Germany and Austria, and book retailers in these two countries, providing for resale price maintenance and the fixing of other sales conditions across the borders. The parties argued that the resale price maintenance scheme maintained and promoted title diversity by means of a mixed calculation on the booksellers' and publishers' level, since the fixed price allowed subsidization of slow-moving books by fast selling books.

In this case the Authority took the view that calculation of prices for commercially attractive products and less attractive ones was, in general, an autonomous and individual decision taken by each producer. It might be true that a resale price maintenance system would provide for small and medium sized retailers to stay on the market, but it was questionable whether this market structure was necessarily the one which best met consumer preferences. The Authority referred to the experiences from the Swedish abolition of resale price maintenance in the book sectors, leading to reduced consumer prices and increased competition, and consequently proposed that a negative view be taken as regards the application for exemption.

A specific aspect of the rules on co-operation laid down in Protocol 23 is the right of both authorities to take part in each others' hearings and Advisory Committee meetings. Since the transition period provided for under the EEA competition regime only expired at the end of June 1994, the Competition Directorate did not conduct any hearings or Advisory Committee meetings. It was, however, represented in hearings conducted by the Commission in 1994, and in the meetings of the various Community Advisory Committees in competition cases.

Protocol 23 also lays down rules on administrative assistance in respect of investigations carried out by the two authorities. Each authority undertakes investigations within its territory, but where the competent authority considers it necessary to undertake an investigation of companies located within the other authority's territory, it may request that this authority carry out the investigation on its behalf. In 1994, the EFTA Surveillance Authority made one request to the Commission that it carry out an investigation into companies situated on Community territory.

According to the rules on co-operation, notifications addressed to the authority which is not competent to decide on the case are to be transferred without delay to the competent authority. In 1994,





one notification received by the Authority was transferred to the Commission due to the agreement's appreciable effect on trade between Community Member States.

### ***Consultations on general policy issues***

Protocol 23 provides for the exchange of information and consultations on general policy issues. The Authority supported, in principle, most of the proposals for revised legislation forwarded by the Commission in 1994, such as the revised legislation in the merger field and the new draft block exemption on technology transfer agreements.

However, in the case of the Commission's motor vehicle block exemption (Regulation 123/85) presently under review, the Authority took the principal view that this should not be superseded by a new block exemption of the same kind. The Authority did not find it demonstrated that the specific characteristics of the motor vehicle sector would support further restrictions of competition in the distribution and servicing of motor vehicles than in other comparable sectors. On the contrary, present experience from the European market, still being divided along national lines with big price differentials, indicated a need to open up this market for effective competition. The organizing of passenger car distribution should consequently - as normally provided for in market economies - be decided in the market place through the choice of consumers, and not by administrative arrangements.

The Authority supported the prolongation of a revised block exemption for a transition period not exceeding five years, in order to allow the automobile industry time to adapt to effective competition in this market. In the Authority's view, this partial prolongation was to be accompanied by a clear statement that any further prolongation was excluded. It furthermore noted that the legislation applicable to distribution agreements in general was to be re-examined shortly, whereby the specific circumstances prevailing in the motor vehicle sector could be taken into consideration.

The Authority has also participated in discussions regarding a proposal from the Commission to change Regulation 27/62 (Form, content and other details concerning applications and notifications) and the Form A/B, which is a part thereof. The reason for the Commission's proposal was the wish to speed up the procedures in cases concerning «structural co-operative joint ventures». According to the Commission this was to be accomplished by requesting substantially more information from the undertakings than was presently done. The Authority questioned whether the proposed new burden on the undertakings would really be necessary in order to achieve the aim of faster procedures for these kind of joint ventures. The Authority pointed out alternative ways to accelerate procedures, such as tailor-made requests for information and computer-supported case management.

#### **4.9.6 Liaison with national authorities**

An important element in the application of EEA competition rules is the co-operation between the Authority and the national authorities. Protocol 4 of the Surveillance and Court Agreement refers to the close and constant liaison of the EFTA Surveillance Authority with the competent authorities of the EFTA States. In the Nordic countries this applies to the national competition authorities also responsible for the application of the national competition laws, whereas in Austria the competent authority forms part of a Ministry, in which a special «liaison» division has been set up.

In the application of the EEA competition rules, as well as in related policy issues, the Authority put emphasis on close, often informal, contacts with these national authorities. There are several reasons for this. One is the general importance of a constant dialogue on competition matters between the European and national levels. This exchange of views and experiences contributes to the development of European competition policy, thereby promoting equal conditions of competition within the EEA.

Another reason is the support which national authorities can often give to the EFTA Surveillance Authority when it is handling individual cases. Long experience from the application of national competition acts, profound knowledge of the national markets and access to specialized staff in different sectors are factors which allow national authorities to give valuable contributions in cases falling under the competence of the EFTA Surveillance Authority.

Finally, a third important reason for close co-operation and co-ordination is to prevent conflicting application of national and EEA competition rules to the same facts. Close contacts could also, when





appropriate, limit the proceedings to only one of those levels. There were, for example, several instances where agreements were notified both to the national authority under national law and to the EFTA Surveillance Authority. As long as the objectives of the EEA competition rules were sufficiently achieved through actions by the national authority, the Authority did not actively pursue such cases on its part. Provided that continuous consultations took place between the Authority and the national level, this proved to be a very effective way of dealing with possible infringements of the competition rules.

National authorities were invited to give comments both on cases pending with the Authority, and on cases where the Commission was competent and where the co-operation procedure under Protocol 23 and 24 of the EEA Agreement was applied. The input given - formally and informally - in this respect often proved to be of great value. In some cases national authorities made special inquiries with the purpose of compiling facts for the preparation of cases under the EEA competition rules. Similarly, the Authority was able to provide information and advice on cases handled under national law where questions relating to the EEA were considered relevant.

As foreseen in Protocol 23 and 24 to the EEA Agreement, the Authority and the EFTA States were represented in the Advisory Committees on competition arranged by the Commission during the year. The EFTA States presented their view in writing on these cases, for which the Authority provided the necessary support. They were also invited to the Commission's yearly Director-General's meeting for national competition authorities.

Another important part of the liaison is the assistance of the national authorities when investigations in the premises of undertakings are conducted by the Authority. One such inspection was launched in Norway and Sweden, regarding a case notified to the Authority. The national authorities provided valuable assistance in preparing and executing this inspection.

In order to promote closer contacts between the Authority and officials on the national levels, the national authorities were invited to send national experts to participate in the handling of competition cases in the Authority during the latter part of the year. One such expert from the Norwegian competition authority stayed with the Authority for a period of three months.



## Annex I:

## EFTA SURVEILLANCE AUTHORITY

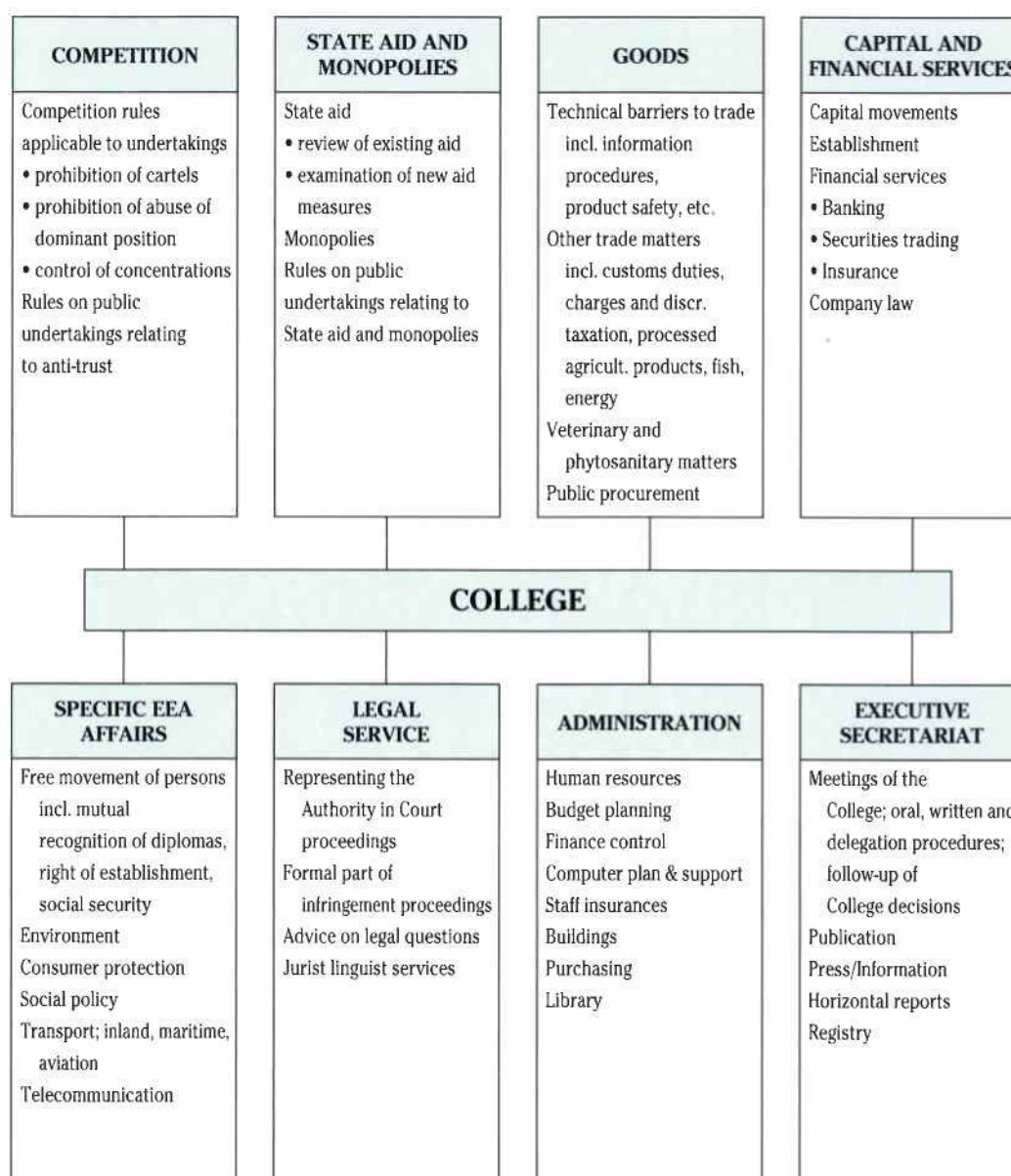
### DIVISION OF RESPONSIBILITIES AMONG COLLEGE MEMBERS IN 1994

KNUT ALMESTAD (PRESIDENT)	BJÖRN FRIDFINNSSON	NIC GRÖNVALL	PEKKA SÄILÄ	HEINZ ZOUREK
General policies Co-ordination External relations Administration Legal Service Executive Secretariat	Capital movement and financial services Transport Telecommunication New technology services	Competition Social policy Consumer protection Environment	Free movement of goods (incl. technical barriers to trade, other trade matters, veterinary and phytosanitary matters)	State aid and monopolies Public procurement Free movement of persons (incl. mutual recognition of diplomas, right of establishment, social security)

## Annex II:

## EFTA SURVEILLANCE AUTHORITY

### ORGANIGRAMME





# Annex III: TRANSPOSITION STATUS OF DIRECTIVES REFERRED TO IN THE ANNEXES TO THE EEA AGREEMENT

(Status: 31 March 1995)

## EXPLANATORY NOTE

This Annex shows the transposition status of the directives referred to in the Annexes to the EEA Agreement, describing the Authority's position or action with respect to the State and directive in question.

As a rule, the Annex reflects the situation as it was on 31 December 1994, but to the extent that the Authority after that date received information indicating an improvement, the Annex shows the more recent status. However, information received after 31 March 1995 is not reflected.

The values (abbreviations) used in the tables have the meanings described below.

- CO** The Authority has received a complete notification of the directive, including texts of all national implementing measures. Action is not deemed necessary, or has not been considered or taken.
- IC** The Authority has received an incomplete notification, or has information indicating incomplete (partial or improper) implementation. Action has not been considered or taken.
- NI** The Authority has no information permitting it to conclude that any implementing measures have been adopted or are in force. Action has not been considered or taken.
- NN** The directive is irrelevant or not applicable, or the State has indicated that, due to the nature of the directive, no implementing measures are necessary. Action has not been considered or taken.
- TP** The State has a transition period for the implementation of the whole directive. Action is not necessary.
- PR** The Authority has informally invited the State to amend the notification, or to adopt measures fully to implement the directive.
- FN** The Authority has sent to the State a letter of formal notice for alleged infringement.
- RO** The Authority has sent to the State a reasoned opinion for alleged infringement.

## FREE MOVEMENT OF GOODS

### Agriculture and Forestry

EEA Reference	EC Reference	Short Title	AT	FI	IS	NO	SE
Annex II,II,1	74/150	Type approval of tractors	CO	CO	CO	CO	CO
Annex II,II,2	74/151	Certain parts and characteristics of tractors	CO	CO	CO	CO	CO
Annex II,II,3	74/152	Maximum design speed & load platforms of tractors	CO	CO	CO	CO	CO
Annex II,II,4	74/346	Rear-view mirrors for tractors	CO	CO	CO	CO	CO
Annex II,II,5	74/347	Field of vision and windscreen wipers for tractors	CO	CO	CO	CO	CO
Annex II,II,6	75/321	Steering equipment of tractors	CO	CO	CO	CO	CO
Annex II,II,7	75/322	Radio interference produced by tractors	CO	CO	CO	CO	CO
Annex II,II,8	76/432	Braking devices of tractors	CO	CO	CO	CO	CO
Annex II,II,9	76/763	Passenger seats for tractors	CO	CO	CO	PR	CO
Annex II,II,10	77/311	Driver-perceived noise level of tractors	CO	CO	CO	PR	CO
Annex II,II,11	77/536	Roll-over protection structures of tractors	CO	CO	CO	PR	CO
Annex II,II,12	77/537	Emissions from diesel engines for tractors	CO	CO	CO	CO	NN
Annex II,II,13	78/764	Driver's seat on tractors	CO	CO	CO	PR	CO
Annex II,II,14	78/933	Lighting and light-signalling devices on tractors	CO	CO	CO	CO	CO
Annex II,II,15	79/532	Type-approval of lighting & signalling - tractors	CO	CO	CO	CO	CO
Annex II,II,16	79/533	Coupling device and reverse of tractors	CO	CO	CO	CO	CO
Annex II,II,17	79/622	Roll-over protection structures of tractors	CO	CO	CO	PR	CO
Annex II,II,18	80/720	Operating space etc. of tractors	CO	CO	CO	PR	CO
Annex II,II,19	86/297	Power take-offs of tractors	CO	CO	CO	PR	CO
Annex II,II,20	86/298	Rear roll-over protection of narrow track tractors	CO	CO	CO	PR	CO
Annex II,II,21	86/415	Controls of tractors	CO	CO	CO	CO	CO
Annex II,II,22	87/402	Front roll-over protection - narrow track tractors	CO	CO	CO	PR	CO
Annex II,II,23	89/173	Certain components & characteristics of tractors	CO	CO	CO	CO	CO

Number of Directives: 23

Abbreviations used: **AT** = Austria, **FI** = Finland, **IS** = Iceland, **NO** = Norway, **SE** = Sweden, **CO** = Complete notification; **IC** = Incomplete notification or measures; **NI** = No measures adopted; **NN** = No measures necessary; **TP** = Transition period; **PR** = Informal action; **FN** = Letter of formal notice; **RO** = Reasoned opinion.



## Construction Products

EEA Reference	EC Reference	Short Title	AT	FI	IS	NO	SE
Annex II, XVI, 1	89/106	Construction products	FN	FN	CO	NI	CO

Number of Directives: 1

## Cosmetics

EEA Reference	EC Reference	Short Title	AT	FI	IS	NO	SE
Annex II, XVI, 1	76/768	Cosmetic products directive	CO	CO	CO	CO	CO
Annex II, XVI, 1	92/8	Cosmetics - amending	CO	CO	CO	CO	CO
Annex II, XVI, 1	92/86	cosmetics - amending	CO	CO	CO	CO	CO
Annex II, XVI, 1	93/35	cosmetics - amending	TP	TP	TP	TP	TP
Annex II, XVI, 1	93/47	16 cosmetic - amending	CO	CO	CO	CO	CO
Annex II, XVI, 2	80/1335	First directive of cosmetic analysis	NI	CO	CO	CO	CO
Annex II, XVI, 3	82/434	Second directive cosmetic analysis	NI	CO	CO	CO	CO
Annex II, XVI, 4	83/514	Third directive cosmetic analysis	NI	CO	CO	CO	CO
Annex II, XVI, 5	85/490	Fourth directive cosmetic analysis	NI	CO	CO	CO	CO
Annex II, XVI, 6	93/73	5 methods dir cosmetic products	NI	CO	CO	CO	CO

Number of Directives: 10

## Cultural Goods

EEA Reference	EC Reference	Short Title	AT	FI	IS	NO	SE
Annex II, XXVIII	93/7	Return of Cultural Objects	FN	TP	TP	TP	CO

Number of Directives: 1

## Dangerous Substances

EEA Reference	EC Reference	Short Title	AT	FI	IS	NO	SE
Annex II, XV, 1	67/548	Substance directive	TP	CO	TP	TP	TP
Annex II, XV, 1	91/410	Substance directive	TP	CO	TP	TP	TP
Annex II, XV, 1	91/632	Substance directive	TP	CO	TP	TP	TP
Annex II, XV, 1	92/37	Substance directive	TP	CO	TP	TP	TP
Annex II, XV, 1	92/69	Substance directive	TP	CO	TP	TP	TP
Annex II, XV, 1	93/101	Substance directive	TP	CO	TP	TP	TP
Annex II, XV, 1	93/105	Substance directive	TP	CO	TP	TP	TP
Annex II, XV, 1	93/21	Substance directive	TP	CO	TP	TP	TP
Annex II, XV, 1	93/72	Substance directive	TP	CO	TP	TP	TP
Annex II, XV, 1	93/90	Substance directive	TP	CO	TP	TP	TP
Annex II, XV, 1	92/32	Substance directive	TP	CO	TP	TP	TP
Annex II, XV, 2	73/404	Non-ionic detergents directive	CO	CO	CO	CO	CO
Annex II, XV, 3	73/405	Anionic detergents directive	CO	CO	CO	CO	CO
Annex II, XV, 4	76/769	Restrictions directive	CO	CO	FN	CO	CO
Annex II, XV, 4	91/659	Restrictions directive	TP	TP	TP	TP	TP
Annex II, XV, 5	78/631	Pesticides directive	TP	TP	TP	TP	TP
Annex II, XV, 6	79/117	PPP directive	TP	TP	TP	TP	TP
Annex II, XV, 6	90/335	PPP directive	TP	TP	TP	TP	TP
Annex II, XV, 7	82/242	Non-ionic detergent biodegradability	CO	CO	CO	CO	CO
Annex II, XV, 8	87/18	GLP directive	CO	CO	FN	CO	CO
Annex II, XV, 9	88/320	Inspection of GLP	CO	CO	FN	CO	CO
Annex II, XV, 10	93/18	Preparations directive	TP	CO	TP	TP	TP
Annex II, XV, 10	93/112	Preparations directive	TP	CO	TP	TP	TP
Annex II, XV, 10	88/379	Preparations directive	TP	CO	TP	TP	TP
Annex II, XV, 11	91/157	Batteries directive	TP	TP	TP	TP	TP
Annex II, XV, 11	93/86	Batteries directive	TP	TP	TP	TP	TP
Annex II, XV, 12a	91/414	PPP directive new	TP	TP	TP	TP	TP
Annex II, XV, 12a	93/71	PPP directive new	TP	TP	TP	TP	TP
Annex II, XV, 12b	91/442	Fastenings on preparations	CO	CO	NI	NI	CO
Annex II, XV, 12d	93/67	Risk assessment of new chemicals	TP	CO	TP	TP	TP

Number of Directives: 30

Abbreviations used: AT = Austria, FI = Finland, IS = Iceland, NO = Norway, SE = Sweden, CO = Complete notification; IC = Incomplete notification or measures; NI = No measures adopted; NN = No measures necessary; TP = Transition period; PR = Informal action; FN = Letter of formal notice; RO = Reasoned opinion.





## Electrical Equipment

EEA Reference	EC Reference	Short Title	AT	FI	IS	NO	SE
Annex II,X,1	73/23	Low Voltage Directive (LVD)	CO	CO	CO	CO	CO
Annex II,X,2	76/117	Electrical Ex Equipment Directive	CO	CO	CO	CO	CO
Annex II,X,3	79/196	Implementation of Electrical Ex Equip Directive	CO	CO	CO	CO	CO
Annex II,X,4	82/130	Electrical Ex in Mines Directive	FN	NN	CO	CO	CO
Annex II,X,5	84/539	Electro-medical equipment	CO	CO	CO	CO	IC
Annex II,X,6	89/336	Electromagnetic Compatibility Directive (EMC)	CO	CO	CO	CO	CO
Annex II,X,6	92/31	Amending EMC	CO	CO	CO	CO	CO
Annex II,X,7	90/385	Active implantable medical devices (AIMD)	PR	CO	CO	CO	CO

Number of Directives: 8

## Environment Protection

EEA Reference	EC Reference	Short Title	AT	FI	IS	NO	SE
Annex II,XVII,2	80/51	Noise from aircrafts	CO	CO	CO	CO	CO
Annex II,XVII,3	85/210	Lead in petrol	CO	CO	CO	CO	CO
Annex II,XVII,4	85/339	Liquid containers	CO	CO	CO	CO	CO
Annex II,XVII,5	89/629	Noise from jets	CO	CO	CO	CO	CO
Annex II,XVII,6	93/12	Sulphur in fuels new	TP	TP	CO	NI	CO

Number of Directives: 5

## Explosives for Civil Use

EEA Reference	EC Reference	Short Title	AT	FI	IS	NO	SE
Annex II,XXIX,1	93/15	Explosives for civil use	IC	CO	FN	IC	IC

Number of Directives: 1

## Fertilizers

EEA Reference	EC Reference	Short Title	AT	FI	IS	NO	SE
Annex II,XIV,1	76/116	Fertilizers directive	CO	CO	FN	CO	CO
Annex II,XIV,1	93/69	Fertilizers directive	CO	CO	FN	CO	CO
Annex II,XIV,2	77/535	Analysis of fertilizers	CO	CO	FN	CO	CO
Annex II,XIV,2	93/1	Analysis of fertilizers	CO	CO	FN	CO	CO
Annex II,XIV,3	80/876	High nitrogen fertilizers	CO	CO	FN	CO	CO
Annex II,XIV,4	87/94	Detonation of hi-N fertilizers	CO	CO	FN	CO	CO
Annex II,XIV,5	89/284	Trace elements in fertilizers	CO	CO	FN	CO	CO
Annex II,XIV,6	89/519	Analysis of fertilizers, add	CO	CO	FN	CO	CO
Annex II,XIV,7	89/530	Trace elements in fertilizers, add	CO	CO	FN	CO	CO

Number of Directives: 9

## Foodstuffs

EEA Reference	EC Reference	Short Title	AT	FI	IS	NO	SE
Annex II,XII,1	62/2645	Additives: colouring matters	NI	CO	CO	CO	CO
Annex II,XII,2	64/54	Additives: preservatives	CO	CO	CO	CO	CO
Annex II,XII,3	65/66	Purity for preservatives	CO	CO	CO	CO	CO
Annex II,XII,4	67/427	Preservatives surface treatment of citrus	CO	CO	CO	CO	CO
Annex II,XII,5	70/357	Additives: antioxidants	CO	CO	CO	CO	CO
Annex II,XII,6	73/241	Cocoa and chocolate directive	CO	FN	NI	IC	FN
Annex II,XII,7	73/437	Sugars for human consumption	CO	FN	NI	IC	FN
Annex II,XII,8	74/329	Additives: emulsifiers, stabilizers thickeners	CO	CO	CO	CO	CO
Annex II,XII,9	74/409	Honey directive	NI	FN	NI	IC	FN
Annex II,XII,11	76/118	Dehydrated preserved milk	NI	FN	NI	IC	FN
Annex II,XII,12	76/621	Erucic acid in oils and fats	CO	CO	CO	CO	CO
Annex II,XII,13	93/58	max levels pesticides fruit and veg - list	NI	CO	CO	CO	CO
Annex II,XII,13	76/895	Pesticides in fruit and veg - max. levels	FN	CO	CO	CO	CO
Annex II,XII,14	77/436	Coffee and chicory extracts	NI	FN	CO	IC	FN
Annex II,XII,15	78/142	Materials and articles: vinyl chloride	CO	CO	CO	IC	CO
Annex II,XII,16	78/663	Purity criteria: emulsifiers, stabilizers	CO	CO	CO	CO	CO
Annex II,XII,16	92/4	purity criteria emulsifiers - amending	CO	CO	CO	CO	CO
Annex II,XII,17	78/664	Purity criteria: antioxidants	CO	CO	CO	CO	CO
Annex II,XII,18	79/112	labelling of food	CO	CO	CO	IC	IC
Annex II,XII,18	93/102	labelling - amending	TP	TP	TP	TP	TP
Annex II,XII,19	79/693	Fruit jams, jellies marmalades	NI	FN	NI	IC	FN
Annex II,XII,20	79/700	Sampling methods for pesticide residues	FN	CO	CO	CO	CO

## Foodstuffs (cont.)

EEA Reference	EC Reference	Short Title	AT	FI	IS	NO	SE
Annex II,XII.21	79/796	Methods of analysis for sugars	CO	CO	NI	CO	CO
Annex II,XII.22	79/1066	Methods of analysis for coffee and chicory	NI	CO	CO	CO	CO
Annex II,XII.23	79/1067	Methods of analysis for preserved milk	NI	CO	NI	CO	CO
Annex II,XII.24	80/590	Symbol	FN	CO	CO	CO	CO
Annex II,XII.25	80/766	Methods of analysis for vinyl chloride monomer	CO	CO	CO	CO	CO
Annex II,XII.26	80/777	Mineral water	CO	FN	NI	IC	FN
Annex II,XII.27	80/891	Methods of analysis for erucic acid	CO	CO	CO	CO	CO
Annex II,XII.28	81/432	Methods of analysis: vinyl chloride	CO	CO	CO	CO	CO
Annex II,XII.29	81/712	Methods of analysis: purity of additives	CO	CO	CO	CO	CO
Annex II,XII.30	82/711	Testing migration constituents of plastic material	CO	CO	CO	CO	CO
Annex II,XII.30	93/8	migration plastic - amending	FN	CO	CO	CO	CO
Annex II,XII.31	83/229	Materials and articles: regenerated cellulose film	FN	CO	CO	CO	CO
Annex II,XII.32	83/417	Caseins and caseinates (lactoproteins)	NI	FN	NI	IC	FN
Annex II,XII.33	83/463	Designation certain ingredients in labelling	CO	CO	CO	CO	CO
Annex II,XII.34	84/500	Materials and articles: ceramic articles	CO	CO	CO	TP	CO
Annex II,XII.35	85/503	Methods of analysis: caseins and caseinates	NI	CO	NI	CO	CO
Annex II,XII.36	85/572	Simultants: testing migration of plastic materials	CO	CO	CO	CO	CO
Annex II,XII.37	85/591	Sampling and analysis of foodstuffs	NN	NN	NN	NN	NN
Annex II,XII.38	93/57	max levels pesticides cereals, animal food-amendin	FN	CO	CO	CO	CO
Annex II,XII.38	86/362	Pesticide residues in cereals	FN	CO	CO	CO	CO
Annex II,XII.39	86/363	Pesticide residues in food of animal origin	FN	CO	CO	CO	CO
Annex II,XII.40	86/424	Sampling chemical analysis of casein ..	NI	CO	NI	CO	CO
Annex II,XII.41	87/250	Labelling alcoholic strength in beverages	IC	FN	CO	CO	CO
Annex II,XII.42	87/524	Chemical analysis for preserved milk	NI	CO	NI	CO	CO
Annex II,XII.43	88/344	Extraction solvents	FN	CO	CO	IC	CO
Annex II,XII.43	92/115	extraction solvents- amending	FN	CO	CO	CO	CO
Annex II,XII.44	88/388	Flavourings	FN	CO	CO	CO	CO
Annex II,XII.46	89/107	Food additives: framework directive	CO	CO	CO	IC	CO
Annex II,XII.47	89/108	Quick frozen foodstuffs	CO	CO	CO	CO	CO
Annex II,XII.48	89/109	Materials and articles in contact	FN	CO	CO	CO	CO
Annex II,XII.49	89/396	Marks identifying the lot	IC	CO	CO	IC	IC
Annex II,XII.49	92/11	marks identifying lot - amending	IC	CO	CO	CO	CO
Annex II,XII.50	89/397	Official control	CO	CO	CO	CO	CO
Annex II,XII.51	89/398	Food for particular nutritional uses	CO	CO	CO	IC	IC
Annex II,XII.52	90/128	Materials and articles: plastic materials	CO	CO	CO	CO	CO
Annex II,XII.52	93/9	plastic materials - amending	CO	CO	CO	CO	CO
Annex II,XII.52	92/39	plastic materials - amending	CO	CO	CO	CO	CO
Annex II,XII.53	90/496	Nutritional labelling	NI	CO	CO	IC	CO
Annex II,XII.54	90/642	Pesticide residues, products of plant origin	FN	CO	CO	CO	CO
Annex II,XII.54	91/321	Infant formulae and follow-on	IC	CO	IC	IC	IC
Annex II,XII.54	92/1	monitoring of temperatures in transport quickfrozen	TP	TP	TP	TP	TP
Annex II,XII.54	92/2	method control temperatures quickfrozen	NI	CO	CO	NI	CO
Annex II,XII.54	93/5	Scientific co-operation	NN	NN	NN	NN	NN
Annex II,XII.54	93/111	cellulose film - amending	CO	CO	CO	NI	CO
Annex II,XII.54	93/10	materials and articles - cellulose film	CO	CO	CO	CO	CO
Annex II,XII.54	93/11	N-nitrosamine N-nitrosatable	NI	CO	NI	CO	NI
Annex II,XII.54	93/45	nectars without sugars and honey	NI	IC	NI	CO	IC
Annex II,XII.54	93/77	fruit juices	NI	IC	NI	CO	IC
Annex II,XII.54	93/99	Additional measures	TP	TP	TP	TP	TP

Number of Directives: 71

## Gas Appliances

EEA Reference	EC Reference	Short Title	AT	FI	IS	NO	SE
Annex II,V.2	90/396	Gas appliances	CO	CO	NI	CO	CO
Annex II,V.3	92/42	Hot-water boilers	FN	FN	CO	NI	FN

Number of Directives: 2

Abbreviations used: AT = Austria, FI = Finland, IS = Iceland, NO = Norway, SE = Sweden, CO = Complete notification; IC = Incomplete notification or measures; NI = No measures adopted; NN = No measures necessary; TP = Transition period; PR = Informal action; FN = Letter of formal notice; RO = Reasoned opinion.



## General TBT

EEA Reference	EC Reference	Short Title	AT	FI	IS	NO	SE
Annex II, XIX, 1	83/189	Information procedure on draft technical reg.	CO	CO	CO	CO	CO
Annex II, XIX, 3a	92/59	General Product Safety	CO	CO	NI	CO	CO
Annex II, XIX, 3c	93/68	New approach directives/amendments	PR	PR	IC	IC	PR

Number of Directives: 3

## Household Appliances

EEA Reference	EC Reference	Short Title	AT	FI	IS	NO	SE
Annex II, IV, 2	79/531	Electric ovens, labelling of energy consumption	NN	NN	NN	NI	CO
Annex II, IV, 3	86/594	Noise emitted by household appliances	PR	PR	CO	NI	CO
Annex II, IV, 4	92/75	Labelling of household appliances	CO	CO	CO	NI	CO

Number of Directives: 3

## Information Technology

EEA Reference	EC Reference	Short Title	AT	FI	IS	NO	SE
Annex II, XVIII, 1	91/263	Approval of Terminal Equipment Directive	CO	CO	CO	CO	CO

Number of Directives: 1

## Lifting and Mechanical Handling Appliances

EEA Reference	EC Reference	Short Title	AT	FI	IS	NO	SE
Annex II, III, 1	73/361	Wire-ropes, chains and hooks	CO	CO	CO	CO	CO
Annex II, III, 2	84/528	Lifting and mechanical handling appliances	CO	CO	CO	CO	CO
Annex II, III, 3	84/529	Electrically operated lifts	CO	CO	CO	NI	CO
Annex II, III, 4	86/663	Self-propelled industrial trucks	CO	CO	CO	CO	CO

Number of Directives: 4

## Machinery

EEA Reference	EC Reference	Short Title	AT	FI	IS	NO	SE
Annex II, XXIV, 1	89/392	Machinery	CO	CO	PR	CO	CO
Annex II, XXIV, 1	93/44	Machinery	CO	CO	NI	CO	IC

Number of Directives: 2

## Medical Devices

EEA Reference	EC Reference	Short Title	AT	FI	IS	NO	SE
Annex II, XXX, 1	93/42	Medical Devices	NI	CO	CO	CO	CO

Number of Directives: 1

Abbreviations used: AT = Austria, FI = Finland, IS = Iceland, NO = Norway, SE = Sweden, CO = Complete notification; IC = Incomplete notification or measures; NI = No measures adopted; NN = No measures necessary; TP = Transition period; PR = Informal action; FN = Letter of formal notice; RO = Reasoned opinion.

## Measuring Instruments

EEA Reference	EC Reference	Short Title	AT	FI	IS	NO	SE
Annex II, IX, 1	71/316	Measuring instruments & metrological control - FD	CO	PR	CO	CO	CO
Annex II, IX, 2	71/317	5 - 50 kg bar and 1 g - 10 kg cylindrical weights	CO	CO	CO	CO	NN
Annex II, IX, 3	71/318	Gas volume meters	CO	CO	CO	CO	NN
Annex II, IX, 4	71/319	Meters for liquids other than water	CO	CO	CO	CO	PR
Annex II, IX, 5	71/347	Meas. standard mass per storage volume of grain	CO	CO	CO	IC	CO
Annex II, IX, 6	71/348	Ancillary equipment for non-water liquid meters	CO	CO	CO	CO	PR
Annex II, IX, 7	71/349	Calibration of tanks of vessels	CO	CO	CO	CO	NN
Annex II, IX, 8	73/360	Non-automatic weighing machines (old)	CO	CO	CO	CO	NN
Annex II, IX, 9	73/362	Material measures of length	CO	CO	CO	CO	CO
Annex II, IX, 10	74/148	Weights of 1 mg - 50 kg above medium-accuracy	CO	CO	CO	CO	NN
Annex II, IX, 11	75/33	Cold-water meters	CO	CO	CO	CO	CO
Annex II, IX, 12	75/106	Making up by volume of prepacked liquids	CO	PR	CO	PR	CO
Annex II, IX, 13	75/107	Bottles used as measuring containers	CO	CO	CO	CO	CO
Annex II, IX, 14	75/410	Continuous totalizing weighing machines	CO	PR	CO	CO	NN
Annex II, IX, 15	76/211	Making up by weight or volume prepackaged product	CO	CO	CO	PR	CO
Annex II, IX, 16	76/764	Clinical mercury-in-glass thermometers	CO	CO	CO	CO	NN
Annex II, IX, 17	76/765	Alcoholometers and alcohol hydrometers	CO	CO	CO	CO	CO
Annex II, IX, 18	76/766	Alcohol tables	CO	PR	CO	CO	CO
Annex II, IX, 19	76/891	Electrical energy meters	CO	CO	CO	CO	CO
Annex II, IX, 20	77/95	Taximeters	CO	CO	CO	CO	CO
Annex II, IX, 21	77/313	Measuring systems for liquids other than water	CO	CO	CO	CO	PR
Annex II, IX, 22	78/1031	Automatic checkweighing & weight grading machines	CO	PR	CO	CO	NN
Annex II, IX, 23	79/830	Hot water meters	CO	CO	CO	CO	CO
Annex II, IX, 24	80/181	Units of measurement	CO	CO	CO	CO	CO
Annex II, IX, 25	80/232	Prepackaged products - nom. quantities, capacities	CO	CO	CO	CO	CO
Annex II, IX, 26	86/217	Tyre pressure gauges for motor vehicles	CO	CO	CO	CO	NN
Annex II, IX, 27	90/384	Non-automatic weighing instruments (NAWI)	CO	CO	CO	PR	CO

Number of Directives: 27

## Medicinal Product

EEA Reference	EC Reference	Short Title	AT	FI	IS	NO	SE
Annex II, XIII, 1	65/65	First Directive PMP	PR	CO	FN	FN	FN
Annex II, XIII, 1	92/73	Homeopathic pharmaceuticals	IC	CO	CO	IC	CO
Annex II, XIII, 2	75/318	Standards and testing PMP	PR	CO	CO	PR	CO
Annex II, XIII, 2	91/507	Testing/amending annex	IC	CO	CO	IC	CO
Annex II, XIII, 3	75/319	Second Directive PMP	PR	CO	CO	FN	FN
Annex II, XIII, 4	78/25	Colouring matters	CO	CO	PR	CO	CO
Annex II, XIII, 5	92/74	Homeopathic veterinary pharmaceuticals	IC	CO	CO	IC	CO
Annex II, XIII, 5	81/851	VMP	PR	CO	CO	PR	CO
Annex II, XIII, 6	81/852	Standards and testing VMP	PR	CO	CO	PR	CO
Annex II, XIII, 6	92/18	Standards and testing/Annex modified	IC	CO	CO	IC	CO
Annex II, XIII, 7	86/609	Protection of animals	CO	CO	PR	IC	CO
Annex II, XIII, 8	87/22	High-tech and biotech	PR	CO	CO	CO	CO
Annex II, XIII, 9	89/105	Pricing of pharmaceuticals	CO	CO	PR	CO	CO
Annex II, XIII, 1	89/342	Immunological PMP	PR	CO	CO	PR	CO
Annex II, XIII, 1	89/343	Radiopharmaceuticals	PR	CO	CO	PR	CO
Annex II, XIII, 1	89/381	Human blood	PR	CO	CO	PR	CO
Annex II, XIII, 1	90/677	Immunological VMP	PR	CO	CO	PR	CO
Annex II, XIII, 1	91/356	Good manufacturing practice	PR	CO	IC	PR	CO
Annex II, XIII, 1	91/412	Good manufacturing practice/VMP	IC	CO	CO	IC	CO
Annex II, XIII, 1	92/25	Wholesale distribution	CO	CO	CO	TP	CO
Annex II, XIII, 1	92/26	Classification for supply	CO	CO	CO	IC	CO
Annex II, XIII, 1	92/27	Labelling of pharmaceuticals	IC	CO	CO	IC	CO
Annex II, XIII, 1	92/28	Advertising of pharmaceuticals	CO	CO	CO	IC	CO
Annex II, XIII, 1	92/109	Narcotic drugs	NI	CO	CO	NI	CO
Annex II, XIII, 1	93/46	Narcotic drugs/Annex modified	NI	CO	CO	NI	CO

Number of Directives: 25

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## Motor Vehicles

EEA Reference	EC Reference	Short Title	AT	FI	IS	NO	SE
Annex II,1	70/156	Type approval of motor vehicles and their trailers	CO	CO	CO	CO	CO
Annex II,1	92/53	Type approval of motor vehicles (new directive)	CO	CO	CO	CO	CO
Annex II,1	93/81	Type approval of motor vehicles	CO	NN	CO	CO	CO
Annex II,1,2	70/157	Permissible sound level and exhaust system of m.v.	TP	TP	TP	TP	TP
Annex II,1,3	70/220	Emissions from motor vehicles	TP	TP	TP	TP	TP
Annex II,1,4	70/221	Liquid fuel tanks and rear protective devices	CO	CO	CO	CO	CO
Annex II,1,5	70/222	Space for rear registration plates	CO	CO	CO	CO	CO
Annex II,1,6	70/311	Steering equipment for motor vehicles & trailers	CO	CO	CO	CO	CO
Annex II,1,6	92/62	Steering equipment for motor vehicles & trailers	CO	CO	CO	CO	CO
Annex II,1,7	70/387	Doors of motor vehicles & trailers	CO	CO	CO	CO	CO
Annex II,1,8	70/388	Audible warning devices for motor vehicles	CO	CO	CO	CO	CO
Annex II,1,9	71/127	Rear-view mirrors of motor vehicles	CO	CO	CO	CO	CO
Annex II,1,10	71/320	Braking devices of cert. categ. of mot.veh.&trail.	CO	CO	CO	CO	CO
Annex II,1,10	91/422	Braking devices	CO	CO	CO	CO	CO
Annex II,1,11	72/245	Radio interference by engines of motor vehicles	CO	CO	CO	CO	CO
Annex II,1,12	72/306	Emissions of pollutants from diesel engines	TP	TP	TP	TP	TP
Annex II,1,13	74/60	Interior fittings of motor vehicles	CO	CO	CO	CO	CO
Annex II,1,14	74/61	Devices to prevent unauthorized use of motor veh.	CO	CO	CO	CO	CO
Annex II,1,15	74/297	Interior fittings of motor vehicles (steering)	CO	CO	CO	CO	CO
Annex II,1,15	91/662	Steering wheel and column in an impact	CO	CO	CO	CO	CO
Annex II,1,16	74/408	Interior fittings of motor vehicles (seat & anch.)	CO	CO	CO	CO	CO
Annex II,1,17	74/483	External projections of motor vehicles	CO	CO	CO	CO	CO
Annex II,1,18	75/443	Reverse and speedometer equipment of motor veh.	CO	CO	CO	CO	CO
Annex II,1,19	76/114	Statutory plates and inscriptions for mot.veh.&tr.	CO	CO	CO	CO	CO
Annex II,1,20	76/115	Anchorage for motor-vehicle safety belts	CO	CO	CO	CO	CO
Annex II,1,20	90/629	Anchorage for safety belts	CO	CO	CO	CO	CO
Annex II,1,21	76/756	lighting & light-signalling devices on mot.v.&tr.	CO	CO	CO	CO	CO
Annex II,1,21	91/663	Lighting & light-signalling devices	CO	CO	CO	CO	CO
Annex II,1,22	76/757	Reflex reflectors for motor vehicles & trailers	CO	CO	CO	CO	CO
Annex II,1,23	76/758	End-outline marker lamps etc. for motor veh. & tr.	CO	CO	CO	CO	CO
Annex II,1,24	76/759	Direction indicator lamps for motor vehicles & tr.	CO	CO	CO	CO	CO
Annex II,1,25	76/760	Rear registration plate lamps for motor veh. & tr.	CO	CO	CO	CO	CO
Annex II,1,26	76/761	Motor-vehicle headlamps (main- and/or dipped-beam)	CO	CO	CO	CO	CO
Annex II,1,27	76/762	Front fog lamps for motor vehicles	CO	CO	CO	CO	CO
Annex II,1,28	77/389	Motor-vehicle towing-devices	CO	CO	CO	CO	CO
Annex II,1,29	77/538	Rear fog lamps for motor vehicles & trailers	CO	CO	CO	CO	CO
Annex II,1,30	77/539	Reversing lamps for motor vehicles & trailers	CO	CO	CO	CO	CO
Annex II,1,31	77/540	Parking lamps for motor vehicles	CO	CO	CO	CO	CO
Annex II,1,32	77/541	Safety belts and restraint systems of motor veh.	CO	CO	CO	CO	CO
Annex II,1,33	90/630	Field of vision	CO	CO	CO	CO	CO
Annex II,1,33	77/649	Field of vision of motor-vehicle drivers	CO	CO	CO	CO	CO
Annex II,1,34	93/91	Interior fittings (identif. of controls etc)	CO	CO	CO	CO	CO
Annex II,1,34	78/316	Int. fittings of mot.v. (identif. of controls etc)	CO	CO	CO	CO	CO
Annex II,1,35	78/317	Defrosting and demisting systems of motor vehicles	CO	CO	CO	CO	CO
Annex II,1,36	78/318	Wiper and washer systems of motor vehicles	CO	CO	CO	CO	CO
Annex II,1,37	78/548	Heating systems for passenger compartm. of mot. v.	CO	CO	CO	CO	CO
Annex II,1,38	78/549	Wheel guards of motor vehicles	CO	CO	CO	CO	CO
Annex II,1,39	78/932	Head restraints of seats of motor vehicles	CO	CO	CO	CO	CO
Annex II,1,40	78/1015	Sound level and exhaust system of motorcycles	TP	TP	TP	TP	TP
Annex II,1,41	80/780	Rear-view mirrors for two-wheeled motor vehicles	CO	CO	CO	CO	CO
Annex II,1,42	80/1268	Fuel consumption of motor vehicles	CO	CO	CO	CO	NI
Annex II,1,42	93/116	Fuel consumption	CO	CO	CO	CO	NI
Annex II,1,43	80/1269	Engine power of motor vehicles	CO	CO	CO	CO	CO
Annex II,1,44	88/77	Emission of gaseous pollutants from diesel engines	TP	TP	TP	TP	TP
Annex II,1,45	89/297	Lateral protection of motor vehicles & trailers	CO	CO	CO	CO	CO
Annex II,1,45a	91/226	Spray-suppression systems	CO	CO	CO	CO	CO
Annex II,1,45b	92/21	Masses and dimensions of M1	CO	CO	CO	CO	CO

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## Motor Vehicles (cont.)

EEA Reference	EC Reference	Short Title	AT	FI	IS	NO	SE
Annex II.I.45c	92/22	Safety glazing and glazing materials	CO	CO	CO	CO	CO
Annex II.I.45d	92/23	Tyres	CO	CO	CO	CO	CO
Annex II.I.45e	92/24	Speed limitation devices	CO	CO	CO	CO	CO
Annex II.I.45f	92/61	Type approval of two or three-wheel motor vehicles	IC	CO	CO	CO	CO
Annex II.I.45g	92/114	External projections forward of cab's rear panel	CO	CO	CO	CO	CO
Annex II.I.45h	93/14	Braking of 2- or 3-wheelers	CO	CO	CO	CO	NI
Annex II.I.45i	93/29	Controls, tell-tales etc. for 2- or 3-wheelers	CO	CO	CO	CO	NI
Annex II.I.45j	93/30	Audible warning devices for 2- or 3-wheelers	CO	CO	CO	CO	NI
Annex II.I.45k	93/31	Stands for 2- or 3-wheelers	CO	CO	CO	CO	NI
Annex II.I.45l	93/32	Passenger hand holds on 2-wheelers	CO	CO	CO	CO	NI
Annex II.I.45m	93/33	Protective devices (anti-vol) of 2- or 3-wheelers	CO	CO	CO	CO	NI
Annex II.I.45n	93/34	Statutory markings for 2- or 3-wheelers	CO	CO	CO	CO	NI

Number of Directives: 69

## Other Machines

EEA Reference	EC Reference	Short Title	AT	FI	IS	NO	SE
Annex II.VII.1	84/538	Lawnmowers	CO	CO	CO	CO	CO

Number of Directives: 1

## Personal Protection Equipment

EEA Reference	EC Reference	Short Title	AT	FI	IS	NO	SE
Annex II.XXII.1	89/686	Personal protective equipment	CO	CO	CO	CO	CO
Annex II.XXII.1	93/95	Personal protective equipment	CO	CO	CO	CO	CO

Number of Directives: 2

## Construction Plant and Equipment

EEA Reference	EC Reference	Short Title	AT	FI	IS	NO	SE
Annex II.VI.1	79/113	Noise emission of construction plant and equipment	CO	CO	CO	CO	CO
Annex II.VI.2	84/532	Construction plant and equipment	CO	CO	CO	CO	CO
Annex II.VI.3	84/533	Compressors	CO	CO	CO	CO	CO
Annex II.VI.4	84/534	Tower cranes	CO	CO	CO	CO	CO
Annex II.VI.5	84/535	Welding generators	CO	CO	CO	CO	CO
Annex II.VI.6	84/536	Power generators	CO	CO	CO	CO	CO
Annex II.VI.7	84/537	Concrete-breakers and picks	CO	CO	CO	CO	CO
Annex II.VI.8	86/295	Roll-over protective structures	CO	CO	NI	CO	CO
Annex II.VI.9	86/296	Falling-object protective structures	CO	CO	NI	CO	CO
Annex II.VI.10	86/662	Excavators, dozers and loaders	CO	CO	CO	CO	CO

Number of Directives: 10

## Pressure Vessels

EEA Reference	EC Reference	Short Title	AT	FI	IS	NO	SE
Annex II.VIII.1	75/324	Aerosol dispensers	CO	CO	PR	CO	FN
Annex II.VIII.2	76/767	Pressure vessels	CO	CO	NI	CO	FN
Annex II.VIII.3	84/525	Seamless steel gas cylinders	FN	CO	PR	CO	FN
Annex II.VIII.4	84/526	Seamless aluminium gas cylinders	FN	CO	PR	CO	FN
Annex II.VIII.5	84/527	Welded steel gas cylinders	FN	CO	PR	CO	FN
Annex II.VIII.6	87/404	Simple pressure vessels	CO	CO	NI	CO	CO

Number of Directives: 6

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## Textiles

EEA Reference	EC Reference	Short Title	AT	FI	IS	NO	SE
Annex II,XI,1	71/307	Textile names	CO	CO	CO	IC	CO
Annex II,XI,2	72/276	Quantitative analysis of binary textile fibre mixt	NI	CO	CO	NI	CO
Annex II,XI,3	73/44	Quantitative analysis of ternary fibre mixtures	NI	CO	CO	NI	CO
Annex II,XI,4	75/36	Textile names «Friskklippet uld»	CO	CO	CO	NI	CO

Number of Directives: 4

## Tobacco

EEA Reference	EC Reference	Short Title	AT	FI	IS	NO	SE
Annex II,XXV,1	89/622	Labelling of tobacco products	FN	CO	IC	IC	IC
Annex II,XXV,1	92/41	tobacco directive (snus) - amending	FN	CO	CO	CO	CO
Annex II,XXV,2	90/239	Tar yield of cigarettes	FN	CO	CO	IC	IC

Number of Directives: 3

## Toys

EEA Reference	EC Reference	Short Title	AT	FI	IS	NO	SE
Annex II,XXIII,	88/378	Safety of toys	CO	CO	CO	TP	CO

Number of Directives: 1

## PRODUCT LIABILITY

EEA Reference	EC Reference	Short Title	AT	FI	IS	NO	SE
Annex III	85/374	Product liability	CO	CO	CO	CO	CO

Number of Directives: 1

## Energy

EEA Reference	EC Reference	Short Title	AT	FI	IS	NO	SE
Annex IV,2	75/405	use of oil in power stations	IC	CO	CO	CO	CO
Annex IV,3	76/491	prices of crude oil	CO	NN	CO	CO	CO
Annex IV,4	78/170	Heat generators	FN	FN	CO	NI	FN
Annex IV,6	85/536	substitute fuel components in petrol	IC	NN	NN	NN	NN
Annex IV,8	90/547	transit of electricity	CO	PR	NN	CO	CO
Annex IV,9	91/296	transit of gas	CO	NN	NN	NN	CO

Number of Directives: 6

## INTELLECTUAL PROPERTY

EEA Reference	EC Reference	Short Title	AT	FI	IS	NO	SE
Annex XVII,1	87/54	protection of semiconductors	CO	CO	CO	CO	CO
Annex XVII,4	89/104	Trade marks	CO	CO	CO	CO	CO
Annex XVII,5	91/250	legal protection of computer programs	CO	CO	CO	CO	CO
Annex XVII,7	92/100	rental-, lending-,copy-right	CO	TP	TP	TP	TP

Number of Directives: 4

## VETERINARY MATTERS

### Animal Health

EEA Reference	EC Reference	Short Title	AT	FI	IS	NO	SE
Annex I,I,1	91/499	Amending 64/432 trade cattle and swine	CO	NI	NN	CO	CO
Annex I,I,1	91/687	Control CSF	CO	CO	NN	CO	CO
Annex I,I,1	64/432	Intra Com. trade in bovine animals and swine	CO	CO	NN	CO	CO
Annex I,I,1	92/65	Balai animals	CO	CO	NN	CO	CO
Annex I,I,2	91/68	Animal health Intra Com trade sheep and goats	TP	TP	TP	TP	CO
Annex I,I,3	90/426	Animal health - Intra Com. movement of equidae	CO	CO	NN	CO	CO
Annex I,I,3	92/36	Animal health - movement of equidae	CO	NI	NN	CO	CO
Annex I,I,4	90/539	Animal health intra-Community trade poultry	CO	CO	NN	CO	CO
Annex I,I,5	91/67	Animal health - placing on the mkt aquaculture	CO	CO	FN	CO	CO
Annex I,I,5	93/54	Amending 91/67/EEC Aquaculture	FN	CO	FN	CO	CO

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## Animal Health (cont.)

EEA Reference	EC Reference	Short Title	AT	FI	IS	NO	SE
Annex I,1,6	89/556	Animal health intra Com trade in bovine embryos	IC	CO	NN	CO	CO
Annex I,1,7	88/407	Animal health intra Com trade bovine semen	IC	CO	NN	CO	CO
Annex I,1,7	93/60	Amending 89/556 Bovine semen	FN	CO	NN	CO	CO
Annex I,1,8	90/429	Animal health intra community trade porcine semen	IC	CO	NN	CO	CO
Annex I,1,9	72/461	Animal health on intra Com trade fresh meat	CO	CO	NN	CO	CO
Annex I,1,10	91/494	Anim health for intra Com. trade poultrymeat	CO	CO	NN	CO	CO
Annex I,1,10	92/116	Poultry meat - animal health amending 91/494/EEC	CO	IC	NN	CO	CO
Annex I,1,11	80/215	Anim health meat products	CO	CO	NN	CO	CO
Annex I,1,12	85/511	Control of Foot and Mouth disease (FMD)	CO	CO	NN	CO	FN
Annex I,1,13	90/423	Control of Foot and mouth disease	CO	IC	NN	CO	CO
Annex I,1,14	80/217	Control of classical swine fever (CSF)	CO	CO	NN	CO	FN
Annex I,1,14	91/685	Control of CSF	CO	CO	NN	CO	IC
Annex I,1,14a	92/35	Control AHS	CO	CO	NN	CO	FN
Annex I,1,14b	92/40	Control Avian influenza	CO	CO	NN	CO	CO
Annex I,1,14c	92/66	Newcastle disease	CO	CO	NN	CO	CO
Annex I,1,14d	93/53	Control fish diseases	CO	CO	FN	CO	CO
Annex I,1,14e	92/119	Control of SVD and general control directive	CO	CO	NN	CO	FN
Annex I,1,15	82/894	Animal disease notification	CO	CO	NN	CO	CO

Number of Directives: 28

## Mixed Group

EEA Reference	EC Reference	Short Title	AT	FI	IS	NO	SE
Annex I,1,32	90/667	Animal waste	IC	CO	FN	IC	CO
Annex I,1,33	90/167	Medicated feedingstuffs	CO	IC	NN	FN	CO
Annex I,1,34	91/495	Rabbit meat and farmed game meat	CO	CO	NN	NI	IC
Annex I,1,34a	92/45	Wild game and wild game meat	CO	CO	NN	NI	CO
Annex I,1,34c	92/117	Zoonoses	NI	NI	NN	TP	CO
Annex I,1,35	89/608	Mutual assistance	FN	CO	NN	CO	CO
Annex I,1,74	89/362	Milk hygiene	CO	NI	NN	IC	CO
Annex I,1,75	89/384	Checks on untreated milk	CO	NI	NN	CO	CO

Number of Directives: 8

## Public Health

EEA Reference	EC Reference	Short Title	AT	FI	IS	NO	SE
Annex I,1,18	64/433	Fresh meat	CO	CO	NN	CO	CO
Annex I,1,18	92/5	Fresh meat	CO	CO	NN	CO	CO
Annex I,1,19	91/498	Derogations fresh meat	CO	CO	NN	CO	CO
Annex I,1,20	71/118	Fresh poultry meat	CO	CO	NN	IC	CO
Annex I,1,21	77/99	Meat products	CO	CO	NN	CO	CO
Annex I,1,21a	92/120	Temporary derogations on health rules	CO	CO	NN	IC	CO
Annex I,1,22	92/110	Minced meat	NI	CO	NN	FN	CO
Annex I,1,22	88/657	Egg products	CO	CO	NN	FN	CO
Annex I,1,23	89/437	Egg products	CO	CO	NN	CO	CO
Annex I,1,23	91/684	Egg products	NI	NI	NN	CO	CO
Annex I,1,24	91/493	Fishery products	NI	CO	CO	CO	CO
Annex I,1,24a	92/48	Fishery products - vessels	NN	CO	CO	CO	CO
Annex I,1,25	91/492	Molluscs	NI	IC	FN	CO	CO
Annex I,1,26	81/602	Hormones	CO	CO	NN	IC	CO
Annex I,1,27	85/358	Hormones	CO	CO	NN	IC	CO
Annex I,1,28	88/146	Hormones in livestock	CO	IC	NN	IC	CO
Annex I,1,29	86/469	Residues	CO	CO	NN	IC	CO
Annex I,1,68	83/201	Derogations - small percentage meat	CO	CO	NN	IC	CO
Annex I,1,73	88/299	Hormones in animals	CO	IC	NN	IC	CO

Number of Directives: 19

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## Zootechnics

EEA Reference	EC Reference	Short Title	AT	FI	IS	NO	SE
Annex I,1,36	77/504	Zootechnics for pure breed bovines	IC	CO	NN	CO	CO
Annex I,1,37	88/661	Zootechnical standards for breeding pigs	IC	CO	NN	CO	CO
Annex I,1,38	89/361	Zootechnics on pure breeding sheep and goats	IC	CO	NN	CO	CO
Annex I,1,39	90/427	Zootechnics intra Com trade Equidae	IC	CO	NN	CO	CO
Annex I,1,40	90/428	Zootechnics equine competitions	IC	CO	NN	CO	FN
Annex I,1,41	91/174	Zootechnics of pure breed animals	IC	CO	NN	CO	CO
Annex I,1,81	87/328	Acceptance of pure bred bovines for breeding	IC	CO	NN	CO	CO
Annex I,1,90	90/118	Zootechnics of pure breeding pigs	IC	CO	NN	CO	CO
Annex I,1,91	90/119	Zootechnics hybrid pigs	IC	CO	NN	CO	CO

Number of Directives: 9

## PHYTOSANITARY MATTERS

### Seeds

EEA Reference	EC Reference	Short Title	AT	FI	IS	NO	SE
Annex I,III,1	66/400	Marketing beet seed	CO	CO	FN	CO	CO
Annex I,III,2	66/401	Marketing of fodder plant seed	CO	CO	FN	CO	CO
Annex I,III,2	92/19	Marketing of fodder plant seed	IC	CO	FN	CO	CO
Annex I,III,3	93/2	Marketing of cereal seed	IC	CO	FN	CO	CO
Annex I,III,3	66/402	Marketing of cereal seed	CO	CO	FN	CO	CO
Annex I,III,4	69/208	Marketing of seed oil and fibre plants	CO	CO	FN	CO	CO
Annex I,III,4	92/9	Marketing of seed of oil and fibre plants	IC	CO	FN	FN	CO
Annex I,III,5	70/457	Common catalogue -agricultural plants	FN	CO	FN	CO	CO
Annex I,III,6	70/458	Marketing of vegetable seed	CO	CO	FN	CO	CO
Annex I,III,7	72/168	Conditions for inspecting vegetable varieties	IC	CO	FN	CO	CO
Annex I,III,8	72/180	Conditions for examining agricultural varieties	IC	CO	FN	CO	CO
Annex I,III,9	74/268	Avena fatua in fodder plant and cereal seed	CO	CO	FN	CO	CO
Annex I,III,10	75/502	Limiting the marketing of Poa pratensis	CO	CO	FN	CO	CO
Annex I,III,13	86/109	Marketing of seed as «basic seed»	CO	CO	FN	CO	CO
Annex I,III,15	89/14	Crop isolation conditions - spinach etc	CO	CO	FN	CO	CO

Number of Directives: 15

### Feeding Stuffs

EEA Reference	EC Reference	Short Title	AT	FI	IS	NO	SE
Annex I,II,1	92/64	Additives	CO	CO	CO	CO	CO
Annex I,II,1	93/55	Additives	CO	CO	CO	CO	CO
Annex I,II,1	92/99	Additives	CO	CO	CO	FN	CO
Annex I,II,1	92/113	Additives	CO	CO	CO	CO	CO
Annex I,II,1	91/620	Additives	CO	CO	CO	FN	CO
Annex I,II,1	91/508	Additives	CO	CO	CO	CO	CO
Annex I,II,1	70/524	Additives	CO	CO	CO	CO	CO
Annex I,II,1	93/27	Additives	CO	CO	CO	CO	CO
Annex I,II,2	87/153	Guidelines for additives	CO	CO	CO	CO	CO
Annex I,II,3	77/101	Straight feedingstuffs	CO	CO	CO	CO	CO
Annex I,II,4	79/373	Compound feedingstuffs	CO	CO	CO	CO	CO
Annex I,II,4	91/681	Compound feedingstuffs	CO	CO	CO	FN	CO
Annex I,II,4b	92/87	Ingredients of compound feedingstuffs	CO	FN	CO	CO	CO
Annex I,II,4c	93/74	Feedingstuffs for nutritional purpose	TP	TP	TP	TP	TP
Annex I,II,5	80/511	Compound feedinsuffs - package	CO	CO	CO	CO	CO
Annex I,II,6	82/475	Labelling compound feedingstuffs	CO	CO	CO	CO	CO
Annex I,II,7	86/174	Energy value - compound	CO	CO	CO	CO	CO
Annex I,II,8	91/357	Labelling compound	CO	CO	CO	CO	CO
Annex I,II,9	82/471	Bioproteins	CO	CO	CO	CO	CO
Annex I,II,9	93/26	Bioproteins	CO	CO	CO	CO	CO
Annex I,II,9	93/56	Bioproteins	CO	CO	CO	CO	CO

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**TP** = Transition period; **PR** = Informal action; **FN** = Letter of formal notice; **RO** = Reasoned opinion.

## Feeding Stuffs (cont.)

EEA Reference	EC Reference	Short Title	AT	FI	IS	NO	SE
Annex I,II,10	83/228	Guidelines- bioproteins	CO	CO	CO	CO	CO
Annex I,II,12	70/373	Methods of sampling and analysis	CO	CO	CO	CO	CO
Annex I,II,13	71/250	First Com Dir - methods of analysis	CO	CO	CO	CO	CO
Annex I,II,14	71/393	Second Com Dir - methods of analysis	CO	CO	CO	CO	CO
Annex I,II,15	72/199	Third Com Dir - methods of analysis	CO	CO	CO	CO	CO
Annex I,II,15	93/28	Analysis and control of feedingstuffs	CO	CO	CO	CO	CO
Annex I,II,16	73/46	Fourth Com Dir - methods of analysis	CO	IC	CO	CO	CO
Annex I,II,16	92/89	Analysis and control of feedingstuffs	CO	CO	CO	CO	CO
Annex I,II,17	74/203	Fifth Com Dir - methods of analysis	CO	CO	CO	CO	CO
Annex I,II,18	75/84	Sixth Com Dir - methods of analysis	CO	CO	CO	CO	CO
Annex I,II,19	76/371	First Com Dir - methods of sampling	CO	CO	CO	CO	CO
Annex I,II,20	92/95	Analysis and control of feedingstuffs	CO	CO	CO	CO	CO
Annex I,II,20	76/372	Seventh Com Dir - methods of analysis	CO	CO	CO	CO	CO
Annex I,II,21	78/633	Eight Com Dir methods of analysis	CO	CO	CO	CO	CO
Annex I,II,22	81/715	Ninth Com Dir - methods of analysis	CO	CO	CO	CO	CO
Annex I,II,23	84/425	Tenth Com Dir methods of analysis	CO	CO	CO	CO	CO
Annex I,II,23a	93/70	Analysis and control of feedingstuffs	CO	CO	CO	CO	CO
Annex I,II,24	92/88	Undesirable substances	CO	CO	CO	CO	CO
Annex I,II,24	74/63	Undesirable substances	CO	CO	CO	CO	CO
Annex I,II,24	92/63	Undesirable substances	CO	CO	CO	CO	CO

Number of Directives: 41

## FREE MOVEMENT OF CAPITAL

EEA Reference	EC Reference	Short Title	AT	FI	IS	NO	SE
Annex XII,1	88/361	Capital Movements Directive (CMD)	CO	CO	CO	IC	CO

Number of Directives: 1

## FREE MOVEMENT OF SERVICES

### Banking

EEA Reference	EC Reference	Short Title	AT	FI	IS	NO	SE
Annex IX,14	73/183	Directive on Abolition of Restr. in Banking (ABD)	CO	NN	CO	CO	CO
Annex IX,15	77/780	First Banking Directive (FBD)	CO	PR	PR	PR	PR
Annex IX,16	89/646	Second Banking Directive (SBD)	PR	PR	PR	PR	PR
Annex IX,17	89/299	Own Funds Directive (OFD)	CO	CO	CO	CO	CO
Annex IX,17	91/633	Amendment 1991 to OFD	CO	CO	CO	CO	CO
Annex IX,17	92/16	Amendment 1992 to OFD	CO	CO	CO	CO	CO
Annex IX,18	89/647	Solvency Ratio Directive (SRD)	CO	CO	CO	CO	CO
Annex IX,19	91/31	Amendment 1991 to SRD	CO	CO	CO	CO	CO
Annex IX,20	92/30	Banking Consolidated Superv. Directive (BSD)	PR	CO	CO	CO	PR
Annex IX,21	86/635	Banking Accounts Directive (BAD)	CO	CO	CO	TP	TP
Annex IX,22	89/117	Banking Branch Directive (BBD)	CO	CO	CO	CO	CO
Annex IX,23	91/308	Money Laundering Directive (MLD)	FN	PR	CO	CO	PR
Annex IX, 23a	92/121	Large Exposures Directive (LED)	TP	CO	CO	TP	TP

Number of Directives: 13

### Insurance

EEA Reference	EC Reference	Short Title	AT	FI	IS	NO	SE
Annex IX,1	64/225	Reinsurance Directive (RID)	CO	CO	CO	PR	CO
Annex IX,2	73/239	First Non-life Insurance Directive (FND)	CO	CO	CO	PR	CO
Annex IX,3	73/240	Dir. on Abolition of Restr. in Non-Life Insur(ARD)	CO	CO	CO	CO	CO
Annex IX,4	78/473	Co-insurance Directive (COD)	PR	PR	CO	PR	CO
Annex IX,5	84/641	Tourist Assistance Directive (TAD)	CO	IC	CO	CO	CO
Annex IX,6	87/344	Legal Expense Insurance Directive (LID)	CO	CO	CO	CO	CO
Annex IX,7	88/357	Second Non-life Insurance Directive (SND)	CO	IC	CO	IC	CO
Annex IX,7a	92/49	Third Non-Life Insurance Directive (TND)	CO	NN	CO	PR	PR

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## Insurance (cont.)

EEA Reference	EC Reference	Short Title	AT	FI	IS	NO	SE
Annex IX,8	72/166	First Motor Insurance Directive (FMD)	PR	PR	PR	PR	PR
Annex IX,9	84/5	Second Motor Insurance Directive (SMD)	PR	PR	PR	CO	PR
Annex IX,10	90/232	Third Motor Insurance Directive (TMD)	CO	PR	PR	PR	PR
Annex IX,11	79/267	First Life Assurance Directive (FLD)	CO	CO	CO	PR	CO
Annex IX,12b	91/674	Insurance Accounts Directive (IAD)	CO	PR	PR	TP	TP
Annex IX,12	90/619	Second Life Assurance Directive (SLD)	CO	CO	CO	CO	CO
Annex IX,12a	92/96	Third Life Assurance Directive (TLD)	CO	PR	CO	PR	PR
Annex IX,13	77/92	Insurance Intermediary Directive (IID)	CO	PR	PR	PR	PR

Number of Directives: 16

## Stock Exchange and Securities

EEA Reference	EC Reference	Short Title	AT	FI	IS	NO	SE
Annex IX,24	79/279	Admission Directive (ADD)	CO	CO	CO	CO	CO
Annex IX,25	80/390	Listing Particulars Directive (LPD)	CO	FN	CO	CO	CO
Annex IX,26	82/121	Disclosure Directive (DID)	CO	FN	CO	CO	CO
Annex IX,27	88/627	Major Holdings Directive (MHD)	CO	CO	CO	CO	CO
Annex IX,28	89/298	Prospectuses Directive (PRD)	CO	CO	CO	CO	CO
Annex IX,29	89/592	Insider Dealing Directive (IDD)	CO	CO	CO	CO	CO
Annex IX,30	85/611	UCITS Directive (UCD)	CO	FN	PR	PR	PR

Number of Directives: 7

## Audio-Visual Services

EEA Reference	EC Reference	Short Title	AT	FI	IS	NO	SE
Annex X,1	89/552	Co-ordination/provision for TV activities	CO	CO	CO	IC	CO

Number of Directives: 1

## Telecommunications

EEA Reference	EC Reference	Short Title	AT	FI	IS	NO	SE
Annex XI,1	87/372	Frequency bands for mobile communications	PR	CO	CO	CO	CO
Annex XI,2	90/387	Open network provision	IC	CO	TP	CO	CO
Annex XI,3	90/388	Competition in the markets for teleservices	PR	CO	CO	CO	CO
Annex XI,4	90/544	Frequency bands for public radio paging	PR	CO	CO	IC	CO
Annex XI,5	91/287	Frequency band for DECT	PR	CO	CO	IC	CO
Annex XI,5b(1)	92/44	ONP/leased lines	PR	CO	TP	CO	CO

Number of Directives: 6

## Aviation

EEA Reference	EC Reference	Short Title	AT	FI	IS	NO	SE
Annex XIII,66	80/1266	Aviation-cooperation air accident investigations	CO	CO	CO	CO	CO
Annex XIII,66c	93/65	Aviation-technical specifications , ATC equipment	PR	CO	NN	IC	IC
Annex XIII,68a	91/670	Aviation-mutual acceptance of licences	PR	CO	PR	CO	CO

Number of Directives: 3

## Inland Transport

EEA Reference	EC Reference	Short Title	AT	FI	IS	NO	SE
Annex XIII,13	92/106	Inland Trans. - combined transport	CO	CO	NN	PR	CO

Number of Directives: 1

## Maritime Transport

EEA Reference	EC Reference	Short Title	AT	FI	IS	NO	SE
Annex XIII,54	79/115	Maritime - pilotage in the N-Sea and the Channel	IC	CO	IC	IC	CO
Annex XIII,55a	93/75	Minimum requirements for vessels	NI	CO	CO	CO	CO

Number of Directives: 2

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## Rail Transport

EEA Reference	EC Reference	Short Title	AT	FI	IS	NO	SE
Annex XIII,37	91/440	Rail - development of railways	TP	CO	NN	CO	CO

Number of Directives: 1

## Road Transport

EEA Reference	EC Reference	Short Title	AT	FI	IS	NO	SE
Annex XIII,14	85/3	Road - weights and dimensions	CO	CO	PR	CO	CO
Annex XIII,14	92/7	Road - weights and dimensions/a	CO	CO	PR	CO	CO
Annex XIII,15	86/364	Road - w and d, compliance	CO	CO	PR	CO	CO
Annex XIII,16	77/143	Road - roadworthiness tests	CO	CO	CO	CO	CO
Annex XIII,16	91/328	Road - roadworthiness tests/a	CO	CO	CO	CO	CO
Annex XIII,16	92/54	Road - roadworthiness tests/a	CO	CO	CO	CO	CO
Annex XIII,16	92/55	Road - roadworthiness tests/a	CO	CO	CO	CO	CO
Annex XIII,17	89/459	Road - tread depth of tyres	CO	CO	CO	CO	CO
Annex XIII,17a	91/671	Road - safety belts	CO	CO	CO	CO	CO
Annex XIII,17b	92/6	Road - speed limitation devices	CO	CO	CO	CO	CO
Annex XIII,18	68/297	Road - fuel contained in fuel tanks	CO	CO	CO	CO	CO
Annex XIII,19	77/796	Road - mutual recog. of diplomas	CO	CO	PR	CO	CO
Annex XIII,22	76/914	Road - minimum level of training	CO	CO	PR	PR	CO
Annex XIII,23	88/599	Road - standard check. proced. 3820+3821/85	TP	IC	NI	CO	CO
Annex XIII,24	89/684	Road - training for drivers carrying danger. goods	CO	CO	PR	CO	CO
Annex XIII,25	62/2005	Road - goods, 1. Council Directive of 23 July 1962	TP	CO	CO	CO	CO
Annex XIII,28	74/561	Road - goods, admission to the occupation	CO	CO	CO	CO	CO
Annex XIII,29	84/647	Road - goods, use of vehicles hired without drivers	CO	CO	PR	CO	CO
Annex XIII,35	74/562	Road - carr. of pass., admission to the occupation	TP	CO	CO	CO	CO

Number of Directives: 19

## FREE MOVEMENT OF PERSONS

### Free Movement of Workers

EEA Reference	EC Reference	Short Title	AT	FI	IS	NO	SE
Annex V,1	64/221	Measures of public policy etc. towards foreigners	CO	CO	PR	CO	CO
Annex V,3	68/360	Abolition of restrictions on workers' movements	CO	CO	PR	CO	CO
Annex V,5	72/194	Extension of personal scope of Directive 221/64	CO	CO	PR	CO	CO
Annex V,6	77/486	Education of children of migrant workers	CO	CO	CO	CO	CO

Number of Directives: 4

## Mutual Recognition

EEA Reference	EC Reference	Short Title	AT	FI	IS	NO	SE
Annex VII,1	89/48	First general system	FN	CO	PR	CO	PR
Annex VII,1a	92/51	Second General System	PR	CO	PR	PR	PR
Annex VII,2	77/249	Lawyers' services	CO	CO	PR	CO	CO
Annex VII,3	81/1057	Acquired rights in medical professions	CO	CO	CO	CO	CO
Annex VII,4	93/16	Doctors	CO	CO	PR	CO	CO
Annex VII,8	77/452	Recognition of general care nurses	CO	CO	CO	CO	CO
Annex VII,9	77/453	Coordination of provisions for general care nurses	CO	CO	CO	CO	CO
Annex VII,10	78/686	Recognition of dentists	TP	CO	CO	CO	CO
Annex VII,11	78/687	Co-ordination of provisions for dentists	TP	CO	CO	CO	CO
Annex VII,12	78/1026	Recognition of diplomas in veterinary medicine	CO	CO	CO	CO	CO
Annex VII,13	78/1027	Co-ordination of provisions in veterinary medicine	CO	CO	CO	CO	CO
Annex VII,14	80/154	Recognition of diplomas in midwifery	CO	CO	CO	CO	CO
Annex VII,15	80/155	Co-ordination of provisions for midwives	CO	CO	CO	CO	CO
Annex VII,16	85/432	Co-ordination of provisions in pharmacy	PR	CO	CO	CO	CO
Annex VII,17	85/433	Recognition of diplomas in pharmacy	PR	CO	CO	CO	CO
Annex VII,18	85/384	Recognition of architects	PR	CO	CO	NN	CO
Annex VII,20	64/222	Transitional measures in wholesale trade	CO	CO	CO	CO	NN

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## Mutual Recognition (cont.)

EEA Reference	EC Reference	Short Title	AT	FI	IS	NO	SE
Annex VII,21	64/223	Establishment and services in wholesale trade	CO	PR	CO	CO	NN
Annex VII,22	64/224	Intermediaries in commerce, ind. & small craft ind.	CO	CO	CO	CO	NN
Annex VII,23	68/363	Establishment & services in retail trade	CO	PR	CO	CO	NN
Annex VII,24	68/364	Transitional measures in retail trade	CO	CO	CO	CO	NN
Annex VII,25	70/522	Establishment and services in coal trade	CO	CO	CO	CO	NN
Annex VII,26	70/523	Transitional measures in coal trade	CO	CO	CO	CO	NN
Annex VII,27	74/556	Trans. measures for activities with toxic products	CO	CO	PR	CO	NN
Annex VII,28	74/557	Estab. & serv. for activities with toxic products	CO	CO	PR	CO	NN
Annex VII,29	75/369	Itinerant activities	NN	PR	CO	CO	NN
Annex VII,30	86/653	Co-ordination of laws for commercial agents	CO	CO	CO	CO	CO
Annex VII,31	64/427	Transition. measures in manuf'g & proc. industries	CO	CO	PR	CO	PR
Annex VII,32	64/429	Establish. & serv. in manufact'g & proc. industries	CO	CO	PR	CO	PR
Annex VII,33	64/428	Establishment and services in mining & quarrying	CO	CO	CO	CO	NN
Annex VII,34	66/162	Provision of electricity, gas, water	CO	CO	CO	CO	NN
Annex VII,35	68/365	Food manufacturing and beverage industries	CO	CO	PR	CO	NN
Annex VII,36	68/366	Trans. measures in food manuf'g. & beverage ind.	CO	CO	PR	CO	NN
Annex VII,37	69/82	Exploration for petroleum and natural gas	CO	CO	CO	CO	NN
Annex VII,38	82/470	Transport, travel agencies, storage, warehousing	CO	CO	CO	CO	NN
Annex VII,39	63/607	Film industry first	CO	CO	CO	CO	NN
Annex VII,40	65/264	Film industry second	CO	CO	CO	CO	NN
Annex VII,41	68/369	Film distribution	CO	CO	CO	CO	NN
Annex VII,42	70/451	Film production	CO	CO	CO	CO	NN
Annex VII,43	67/43	Real estate and business services	CO	CO	PR	CO	NN
Annex VII,44	68/367	Activities in the personal service sector	CO	CO	CO	CO	NN
Annex VII,45	68/368	Transitional measures in personal services sector	CO	CO	CO	CO	NN
Annex VII,46	75/368	Various activities	CO	CO	CO	CO	NN
Annex VII,47	82/489	Hairdressing	CO	CO	PR	CO	NN
Annex VII,48	63/261	Establishment in agriculture	PR	CO	CO	CO	NN
Annex VII,49	63/262	Agricultural holdings	PR	CO	PR	CO	NN
Annex VII,50	65/1	Services in agriculture and horticulture	PR	CO	CO	CO	NN
Annex VII,51	67/530	Transfer between holdings	PR	CO	CO	CO	NN
Annex VII,52	67/531	Agricultural leases	PR	CO	PR	CO	NN
Annex VII,53	67/532	Freedom of access to co-operatives	PR	CO	CO	NN	NN
Annex VII,54	67/654	Forestry and logging	PR	CO	CO	CO	NN
Annex VII,55	68/192	Freedom of access to credits	PR	CO	CO	NN	NN
Annex VII,56	68/415	Freedom of access to aid	PR	CO	CO	NN	NN
Annex VII,57	71/18	Agricultural and horticultural services	PR	CO	CO	CO	NN

Number of Directives: 54

## Right of Establishment

EEA Reference	EC Reference	Short Title	AT	FI	IS	NO	SE
Annex VIII,3	73/148	Movement and residence	CO	CO	PR	CO	CO
Annex VIII,4	75/34	Residence after activity	CO	CO	PR	CO	CO
Annex VIII,5	75/35	Extension of scope	CO	CO	PR	CO	CO
Annex VIII,6	90/364	Right of residence	CO	CO	PR	CO	CO
Annex VIII,7	90/365	Residence after occupational activity	CO	CO	PR	CO	CO
Annex VIII,8	93/96	Residence for students	CO	CO	NI	CO	CO

Number of Directives: 6

## HORIZONTAL AREAS RELEVANT FOR THE FOUR FREEDOMS

### Health and Safety at Work

EEA Reference	EC Reference	Short Title	AT	FI	IS	NO	SE
Annex XVIII,1	77/576	Safety signs at places of work	PR	TP	CO	CO	CO
Annex XVIII,2	78/610	Exposure to vinyl chloride monomer	PR	CO	CO	CO	CO
Annex XVIII,3	80/1107	Exposure to chemical agents etc., at work	PR	CO	CO	CO	CO
Annex XVIII,4	82/605	Exposure to metallic lead at work	PR	CO	CO	CO	CO

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 TP = Transition period; PR = Informal action; FN = Letter of formal notice; RO = Reasoned opinion.

## Health and Safety at Work (cont.)

EEA Reference	EC Reference	Short Title	AT	FI	IS	NO	SE
Annex XVII,5	83/477	Exposure to asbestos at work	PR	CO	CO	CO	CO
Annex XVIII,6	86/188	Exposure to noise at work	PR	CO	CO	CO	CO
Annex XVIII,7	88/364	Ban of certain agents and work activities	PR	CO	CO	CO	CO
Annex XVIII,8	89/391	Improvement of safety and health at work	PR	CO	CO	CO	CO
Annex XVIII,9	89/654	Safety and health requirements for workplace	PR	CO	CO	CO	CO
Annex XVIII,10	89/655	Safety and health, use of work equipment	PR	CO	CO	CO	CO
Annex XVIII,11	89/656	Safety and health, use of protective equipment	PR	CO	CO	CO	CO
Annex XVIII,12	90/269	Safety and health, manual handling of loads	PR	CO	CO	CO	CO
Annex XVIII,13	90/270	Safety & health, work with display screen equipment	PR	CO	CO	CO	CO
Annex XVIII,14	90/394	Exposure to carcinogens at work	PR	CO	CO	CO	CO
Annex XVIII,15a	93/88	Addendum to 90/659 (15)	PR	CO	CO	CO	CO
Annex XVIII,15	90/679	Exposure to biological agents at work	PR	CO	CO	CO	CO
Annex XVIII,16	91/383	Safety and health - short-term employment	PR	CO	CO	CO	CO
Annex XVIII,16b	92/57	Temporary or mobile construction sites	NI	CO	CO	CO	CO
Annex XVIII,16c	92/58	Safety and health signs at work	PR	CO	CO	CO	CO
Annex XVIII,16d	92/85	Pregnant and breastfeeding workers	NI	CO	NI	NI	CO
Annex XVIII,16e	92/91	Mineral extracting industries	NI	CO	CO	NI	CO
Annex XVIII,16f	92/104	Surface and underground mineral extracting ind.	NI	CO	CO	NI	CO

Number of Directives: 22

## Labour Law

EEA Reference	EC Reference	Short Title	AT	FI	IS	NO	SE
Annex XVIII,22	75/129	Collective redundancies	CO	CO	PR	PR	CO
Annex XVIII,23	77/187	Employees' rights in case of trans.of undertakings	CO	RO	PR	PR	FN
Annex XVIII,24	80/987	Protect.of employees in case of employer's insolv.	CO	RO	PR	PR	RO
Annex XVIII,25	91/533	Obligation to inform of conditions	CO	CO	PR	PR	CO
Annex XVIII,26	92/56	Collective redundancies - amendment	CO	CO	PR	PR	CO

Number of Directives: 5

## Equal Treatment for Men and Women

EEA Reference	EC Reference	Short Title	AT	FI	IS	NO	SE
Annex XVIII,17	75/117	Equal pay for men and women	CO	PR	CO	CO	CO
Annex XVIII,18	76/207	Equal treat. for men & women in access to work etc	CO	PR	CO	CO	CO
Annex XVIII,19	79/7	Equal treat. for men & women in social sec.matters	CO	CO	PR	PR	CO
Annex XVIII,20	86/378	Equal treat.for men & women in occupation. schemes	CO	CO	CO	CO	CO
Annex XVIII,21	86/613	Equal treatment of self-employed men and women	CO	CO	CO	CO	CO

Number of Directives: 5

## Consumer Protection

EEA Reference	EC Reference	Short Title	AT	FI	IS	NO	SE
Annex XIX,1	79/581	Indication of prices of foodstuffs	PR	CO	CO	CO	CO
Annex XIX,2	84/450	Misleading advertising	FN	CO	CO	CO	CO
Annex XIX,3	85/577	Contracts negotiated away	CO	CO	CO	CO	CO
Annex XIX,4	87/102	Consumer credits	CO	CO	CO	IC	CO
Annex XIX,5	87/357	Dangerous imitations	CO	CO	CO	CO	CO
Annex XIX,6	88/314	Indication of prices of non-food	PR	CO	CO	CO	CO
Annex XIX,7	90/314	Package travel	FN	PR	CO	PR	CO

Number of Directives: 7

## Environment

EEA Reference	EC Reference	Short Title	AT	FI	IS	NO	SE
Annex XX, 1	85/337	Environment impact assessment	FN	CO	CO	FN	PR
Annex XX, 2	90/313	Information on the environment	PR	CO	CO	CO	CO
Annex XX, 3	75/440	Surface water intended for drinking water	FN	CO	PR	CO	CO
Annex XX, 4	76/464	Certain dangerous substances discharged into water	PR	CO	TP	PR	PR

Abbreviations used: AT = Austria, FI = Finland, IS = Iceland, NO = Norway, SE = Sweden, CO = Complete notification; IC = Incomplete notification or measures; NI = No measures adopted; NN = No measures necessary; TP = Transition period; PR = Informal action; FN = Letter of formal notice; RO = Reasoned opinion.



## Environment (cont.)

EEA Reference	EC Reference	Short Title	AT	FI	IS	NO	SE
Annex XX, 5	79/869	Sampl/analy. of surf. water intend. for drink. wtr	FN	CO	PR	PR	CO
Annex XX, 6	80/68	Protection of groundwater	PR	CO	CO	PR	PR
Annex XX, 7	80/778	Quality of water for human consumption	FN	CO	PR	CO	CO
Annex XX, 8	82/176	Mercury discharges by the chlor-alk elect industry	PR	CO	TP	PR	PR
Annex XX, 9	83/513	Cadmium discharges	PR	CO	TP	PR	PR
Annex XX, 10	84/156	Mercury discharges by other sectors	PR	CO	TP	PR	PR
Annex XX, 11	84/491	Discharges of hexachlorocyclohexane	PR	CO	TP	PR	PR
Annex XX, 12	86/280	Limit values and quality objectives for discharges	PR	CO	TP	PR	PR
Annex XX, 13	91/271	Urban waste water treatment	PR	CO	TP	PR	CO
Annex XX, 13a	91/676	Protection of waters against nitrates	NI	NI	IC	CO	CO
Annex XX, 14	80/779	Air quality standards for sulphur dioxide	RO	CO	TP	PR	CO
Annex XX, 15	82/884	Lead in the air	RO	PR	TP	PR	PR
Annex XX, 16	84/360	Air pollution from industrial plants	PR	CO	TP	PR	PR
Annex XX, 17	85/203	Air quality standards for nitrogen dioxide	RO	CO	TP	PR	CO
Annex XX, 18	87/217	Pollution by asbestos	PR	CO	TP	CO	CO
Annex XX, 19	88/609	Large combustion plants	PR	PR	NN	NN	PR
Annex XX, 20	89/369	New waste incineration plants	PR	CO	TP	PR	CO
Annex XX, 21	89/429	Existing waste-incineration plants	PR	CO	CO	PR	CO
Annex XX, 21a	92/72	Air pollution by ozone	CO	IC	CO	NI	IC
Annex XX, 23	82/501	Seveso	PR	CO	NI	CO	CO
Annex XX, 26	75/439	Disposal of waste oils	CO	CO	CO	PR	CO
Annex XX, 27	75/442	Waste	CO	CO	CO	TP	CO
Annex XX, 28	78/176	Waste from the titanium dioxide industry	CO	CO	CO	CO	CO
Annex XX, 30	82/883	Surv. & monit. of waste from the titan. diox. ind.	CO	CO	CO	CO	CO
Annex XX, 32	86/278	Sewage sludge in agriculture	PR	CO	PR	CO	CO
Annex XX, 32b	92/112	pollution from titanium dioxide industry	CO	IC	CO	CO	CO
Annex XX, 32d	92/14	Chapter II aeroplanes	TP	CO	CO	CO	CO

Number of Directives: 31

## PUBLIC PROCUREMENT

EEA Reference	EC Reference	Short Title	AT	FI	IS	NO	SE
Annex XVI.1	71/304	Abolition of restrictions etc -public works	FN	CO	CO	CO	CO
Annex XVI.2	93/37	Public works contracts - Authorities	IC	CO	CO	CO	CO
Annex XVI.3	93/36	Public supply contracts- Authorities	IC	CO	CO	CO	CO
Annex XVI.4	93/38	Utilities (supply, service and works contracts)	IC	CO	CO	TP	CO
Annex XVI.5	89/665	Legal Remedies - Authorities	FN	CO	CO	CO	CO
Annex XVI.5a	92/13	Legal remedies - Utilities	NI	CO	CO	TP	CO
Annex XVI.5b	92/50	Public service contracts - Authorities	NI	CO	CO	CO	CO

Number of Directives: 7

## STATE AID

EEA Reference	EC Reference	Short Title	AT	FI	IS	NO	SE
Annex XV.1	80/723	Transparency Directive	CO	CO	CO	CO	CO

Number of Directives: 1

## COMPETITION

EEA Reference	EC Reference	Short Title	AT	FI	IS	NO	SE
Annex XIV.12	88/301	Competition in Telecom terminal equipment	CO	CO	CO	CO	CO

Number of Directives: 1

Abbreviations used: AT = Austria, FI = Finland, IS = Iceland, NO = Norway, SE = Sweden, CO = Complete notification;  
 IC = Incomplete notification or measures; NI = No measures adopted; NN = No measures necessary;  
 TP = Transition period; PR = Informal action; FN = Letter of formal notice; RO = Reasoned opinion.

# Annex IV:

## STATE AID CASES IN WHICH THE EFTA SURVEILLANCE ARAISED NO OBJECTIONS

Member State	Case Number	Date of decision	Title	Press release	OJ
Austria	94-001	11/05/94	Investment project by BMW in Steyr, Austria	(94)9	94 C 250/3
	94-002	4/05/94	Burgenland law	(94)8	94 C 158/5
	94-003	17/06/94	Burgenland guidelines		94 C 250/6
	94-005	11/05/94	Austrian map of assisted areas	(94)8	94 C 199/7
	94-020	20/07/94	Location of Enterprises Impulse Programme	(94)14	94 C 250/6
	94-021	26/10/94	Tourism Impulse Programme	(94)23	94 C 366/4
	94-028	9/11/94	Business Structure	(94)25	94 C 366/5
	94-029	9/11/94	Top Eurofit Programme	(94)25	94 C 366/5
	94-030	28/09/94	Aid to iR3 Video International, GmbH (Philips)	(94)18	94 C 366/4
	94-034	13/10/94	Traditional Lower Austrian Inns		94 C 347/12
	94-041	21/12/94	Guarantee scheme by the East-West Fund		94 C 398
	94-047	21/12/94	Euro-Economic-Promotion Programme	(94)32	94 C 398
	94-049	21/12/94	Business Structure Improvement Act	(94)31	94 C 398
	94-051	21/12/94	Business Structure Improvement Act - regional component	(94)31	94 C 398
	94-058	30/12/94	Guidelines under § 51a of the Labour Market Promotion Act	(94)37	94 C 398
Finland	94-004	3/06/94	Temporary grant scheme for industrial investment	(94)11	94 C 199/7
	94-010	5/08/94	Venture capital guarantee scheme of the Finnish Guarantee Board	(94)15	94 C 366/4
	94-023	7/09/94	Employment subsidy for unemployed young	(94)17	94 C 292/13
	94-024	7/09/94	Employment subsidy for apprenticeship training	(94)17	94 C 292/13
	94-026	19/10/94	Alteration of the regional investment aid	(94)21	95 C 14/4
	94-032	21/09/94	Management aid for venture capital funds		94 C 366/4
	94-033	7/12/94	Åland - transport aid	(94)28	94 C 398
	94-035	19/10/94	Grants and soft loans for industrial R&D	(94)22	94 C 347/12
	94-036	7/12/94	Regional transport subsidy	(94)28	94 C 398
	94-037	7/12/94	Consolidation guarantee scheme of the Finnish Guarantee Board	(94)29	95 C 60/5
	94-043	28/12/94	Aid for investments of Imatra Steel Oy Ab	(94)35	94 C 398
	94-044	21/12/94	Map of assisted areas and aid ceilings thereof	(94)33	94 C 398
	94-046	21/12/94	R&D aid in the field of energy		94 C 398
	94-050	28/12/94	Aid to businesses' internationalisation	(94)36	94 C 398
Norway	94-007	20/07/94	Aid to the Norwegian Trade Council		94 C 258/3
	94-011	28/09/94	Aid for restructuring of Sami activities in Finnmark	(94)19	94 C 347/12
	94-045	16/11/94	Norwegian map of assisted areas	(94)26	95 C 14/4
Sweden	94-006	8/06/94	Grant to small enterprises	(94)11	94 C 199/7
	94-014	30/12/94	Amendment of Localisation grant	(94)38	94 C 398
	94-015	30/12/94	Amendment of Localisation loan	(94)38	94 C 398
	94-016	30/12/94	Amendment of Development grant	(94)38	94 C 398
	94-017	30/12/94	Amendment of Localisation grant for business services	(94)38	94 C 398
	94-052	28/12/94	Aid for R&D in the field of hydro-power technology	(94)34	94 C 398
	94-065	30/12/94	Map of assisted areas and aid ceilings thereof	(94)38	94 C 398



## Annex V: LIST OF SCHEMES REVIEWED BY THE EFTA SURVEILLANCE AUTHORITY UNDER THE EXISTING AID PROCEDURE

Member State	Date of decision	Schemes affected
Austria	07.12.94	SME and regional aid scheme for intangible investment
	07.12.94	SME and regional aid scheme for product development and investment projects
	07.12.94	Mining Assistance
	14.12.94	Innovation and Technology Fund Act (ITFG)
	14.12.94	Guidelines under the ITFG (Federal Ministry of Science and Research)
	14.12.94	Guidelines under the ITFG (Federal Ministry of Public Economy and Transport)
	14.12.94	Guidelines for aid under the ITFG
	14.12.94	Technologies in the field of transport
	14.12.94	Technologies in the field of energy
	14.12.94	Flexible computerintegrated production for SMEs
	14.12.94	Technologies in the field of environment
	14.12.94	Software-technology
	14.12.94	Labour Market Promotion Act
	14.12.94	SME scheme under § 27a of the Labour Market Promotion Act
	14.12.94	Regional scheme under § 35a of the Labour Market Promotion Act
	14.12.94	Rescue and restructuring scheme
	21.12.94	Seed Financing Programme
	21.12.94	Guarantee Act 1977
	21.12.94	Guidelines for guarantees under § 1of the Guarantee Act
	21.12.94	Grants according to § 1b (1) of the Guarantee Act
	21.12.94	Rescue and restructuring aid - § 1b (2) of the Guarantee Act
Finland	23.11.94	Energy grants
	30.12.94	Bank aid
Norway	23.11.94	Grants to SMEs in central regions
	23.11.94	Development grants
	23.11.94	Grants for development of business and industry
	23.11.94	Grants for development of business and industry
	23.11.94	Grants for development of business and industry
	23.11.94	Funds for restructuring of the region of Grenland
	23.11.94	The Norwegian corporation for industrial estates and development
	01.12.94	Strategy funds - strategic priorities for enhanced exports from mainland Norway
	01.12.94	Grants to export-related activities
	01.12.94	Export development programme for SMEs
	01.12.94	Industrial R&D contracts
	01.12.94	Industrial R&D projects
	01.12.94	Public R&D contracts
	01.12.94	Industrial R&D programmes
	14.12.94	Aid for development and diffusion of cleaner technologies
	14.12.94	Aid for recycling and reduction of waste
	14.12.94	Guarantees for loans to aid to investment in cleaner technologies, waste reduction and waste recycling projects
	14.12.94	Guarantees and loans to the company responsible for treatment of hazardous waste
Sweden	30.12.94	Bank aid
	16.11.94	Information technology
	16.11.94	Technical R&D
	23.11.94	Development capital by the regional development companies
	01.12.94	Localisation grant
	01.12.94	Localisation loans
	01.12.94	Development grant
	01.12.94	Loans to private investment companies
	30.12.94	Bank aid



**EFTA SURVEILLANCE AUTHORITY**

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