

2000

EFTA Surveillance Authority



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Foreword

The broadly-based initiatives launched by the European Union during the last years to boost sustainable economic growth, employment and social cohesion are having a strong impact on the European Economic Area. The EEA, being an extension of the European Community's Internal Market to the EFTA States, was given a great push forward by the Single Market Action Plan, and is continuing its development through the impetus of the Strategy for Europe's Internal Market.

The guidelines set by the Lisbon Summit, and their follow-up by actions such as the Internal Market Strategy for Services and the Financial Services Action Plan will, for the years to come, set the pace for the parallel broadening and deepening of co-operation in the EEA. While it is true that the scope of the EEA is more limited than some of the objectives of these initiatives in terms of harmonization of legislation, the EEA Agreement binds the EFTA States by rules of primary law relating to the four freedoms and equal conditions of competition which are identical in substance to the provisions of the EC Treaty.

As the process of removing national restrictions to cross-border co-operation deepens, particularly in the fields of services, capital and establishment, new challenges have emerged which not only represent new ground for the work of the Authority, but also demand the dedicated co-operation of national authorities.

In its present work, the Authority registers with some concern that two EFTA States have lost considerable momentum in their efforts to incorporate EEA legislation into their legal systems. Their implementation deficits are not improving, and the relative performance of these states compared to other EEA States is deteriorating, in spite of their pledging support to initiatives aimed at improving the functioning of the Internal Market. This inconsistency must urgently be eliminated.

Loss of consumer confidence in food safety is causing serious political and economic problems. It is also a challenge to the good functioning of the Internal Market and the EEA in the sectors concerned.

During the year 2000, the Authority concentrated on the control of Border Inspection Posts and on further inspections of fresh meat and fish establishments. The inspection programme is now also including dairies and will extend to the poultry sector. At the same time, implementation and application controls relating to foodstuffs will be consistently continued, and strengthened as regards feeding-stuffs. In all these fields, the performance and interaction of national authorities is of particular importance. The Authority counts on their full co-operation.

Brussels, February 2001



Knut Almestad
President



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The task of the EFTA Surveillance Authority is to ensure, together with the European Commission, the fulfilment of the obligations set out in the Agreement on the European Economic Area (EEA Agreement). The Agreement contains both basic provisions and secondary Community legislation (EEA acts). New EEA acts are included in the Agreement through decisions of the EEA Joint Committee. By the end of 2000, there was a total of 2904 binding acts (directives, regulations and decisions) applicable under the Agreement. The number of directives with a compliance date, the date by which the EFTA States¹ have to comply with the directive, unless a transitional period has been granted or no implementing measures are necessary, on or before 31 December 2000, was 1424.

In respect of *general surveillance*, the Authority continued in 2000 to apply an implementation policy according to which formal infringement proceedings are initiated automatically (by sending a letter of formal notice) against the EFTA State concerned if the Authority has received no acceptable notification on national implementing measures within *two* months from the date when the Directive in question should have been transposed. As regards directives, which have been only partially implemented, the need to initiate formal proceedings is considered at regular intervals.

In its statistics on the *transposition rate* of directives the Authority makes a distinction between directives which have been notified as *fully* implemented and those where only *partial* implementation has taken place.

When account is taken only of directives where *full* implementation has been notified, the rate of transposition by the end of 2000 was as follows: **Iceland** 94.0%, **Liechtenstein** 97.6% and **Norway** 95.3%. Comparing these with the corresponding figures for 1999, an improvement took place for Liechtenstein,


and, to a minor extent, for Norway. It should be noted, however, that the fact that a directive has been notified as fully implemented does not say anything about the actual *quality* of the national measures notified as implementing it. For a quality evaluation, the conformity of the measures with the provisions of a directive has to be assessed. By the end of 2000, the Authority's services had concluded that full implementation had actually taken place with respect to 34% of the directives being applicable under the EEA Agreement.

When directives regarding which *partial* implementation has taken place are *added* to those notified as fully implemented, the percentages are the following: **Iceland** 95.3%, **Liechtenstein** 98.8% and **Norway** 97.6%. The comparison of these figures with those of 1999 reveals that only Liechtenstein made progress in 2000.

When the areas of free movement of *goods, persons, services and capital movements, horizontal areas* and *public procurement* are taken together, during the years 1994-2000, the Authority registered altogether 976 cases, of which 713 were own-initiative cases and 263 complaints. By the end of the reporting year, the Authority had closed in total 518 own-initiative cases and 128 complaint cases. This left the total number of open cases in the field of general surveillance, excluding management tasks, at 330.

In the area of *free movement of goods*, three new complaints were received during the year and the Authority opened 38 own-initiative cases mainly concerning the implementation of acts. Furthermore, a number of preliminary examinations and cases related to management tasks were initiated during the year. Two cases against **Norway** regarding the free movement of goods were referred to the EFTA Court. The implementation situation in the EFTA States in the sector of *medicinal products* has improved while with regard to **Iceland** it has deteriorated in the field of *feedingstuffs*. With regard to the *veterinary legislation*, the *conform-*

¹ In this report, the term EFTA States is used to refer to the three EFTA States presently participating in the EEA, that is Iceland, Liechtenstein and Norway.



ity assessment concentrated on the legislation which calls for inspections and the *application control* of the legislation concentrated on inspections of Border Inspection Posts in **Iceland** and **Norway**. Continuous control of the correct application of the EEA rules was carried out by the Authority with regard to a number of cases under the *information procedures*, which are further explained in chapter 4.7.3.

With regard to public procurement, the application of the EEA rules by national authorities and utilities continued to call for particular attention of the Authority. The Authority received ten complaints and considered it necessary to open six own-initiative cases for possible infringement of the public procurement rules. In the autumn of 2000, the Authority made a decision to the effect of exempting telecommunications operators from the *utilities procurement directive* (93/38/EEC) in **Iceland** and **Norway**. In **Liechtenstein**, those operators providing mobile telephony services were exempted.

In the sectors related to the *free movement of persons* the Authority received ten new complaints during the year. In addition, in the area of free movement of workers examination was continued of 11 complaints received in previous years.

In the field of mutual recognition of professional qualifications, the EFTA Court gave a judgement in a case submitted by the Authority concerning **Norway's** failure to fully implement the *Second General System Directive* (92/51/EEC). The Court confirmed the Authority's position that national rules requiring those wanting to take up or pursue a profession in the seafaring sector to produce a medical certificate issued by a doctor approved by Norwegian authorities were contrary to the EEA Agreement. The rules have been changed and the case has been closed. In 1999, **Liechtenstein** communicated a new diploma in Architecture to the Authority with the aim to have it recognised throughout the EEA. In November 2000, the Authority approved the diploma by a decision to publish it.

In the area of freedom of establishment, the Authority sent a reasoned opinion to **Liechtenstein** regarding rules, which require doctors and dentists to have only one establishment. The Authority did also send two letters of formal notice to Liechtenstein concerning rules, which require a balanced proportion between nationals and foreigners in certain professions. **Norway** received a letter of formal notice concerning rules giving priority to local ownership when allocating licences within the aquaculture sector.

In the field of social security, the long lasting case of access to the Norwegian social security system for non-Norwegian EEA nationals who work on the state's continental shelf might be coming to an end, as **Norway** undertook to amend its legislation and include those persons.

In the sector of *free provision of services*, the Authority registered 30 new own-initiative cases and four complaints. Full implementation of directives in the financial services sector continued to be a problematic area and several infringement proceedings were initiated or carried on against all EFTA States. In particular, the Authority sent letters of formal notice to **Norway** concerning restrictions in national law on ownership of financial institutions and also regarding rules, which limit insurance companies' choice of assets that need not be used as cover for the technical provisions.

In telecommunications services, **Norway** undertook, in a reply to a reasoned opinion, to transfer the ownership of Telenor between Ministries in order to ensure the independence of the national regulator. Furthermore, following a letter of formal notice concluding that the Norwegian regulator did not have sufficient powers to take decisions in interconnection disputes before the end of a three-months mediation period, Norway stated that it would change the present legislation.

In the transport sector, the Authority initiated and pursued a number of infringement proceedings in implementation cases concerning both non- and partial implementation, especially regarding **Iceland**. In addition, upon application, the Authority took three decisions permitting **Norway** to derogate from the main rules of three directives in the field of maritime transport.

In the area of non-harmonized services, the Authority sent a letter of formal notice to **Norway** concerning discriminatory income tax exemption of lottery prizes depending on whether Norwegian residents gained such prizes in domestic or foreign lotteries. The Authority also sent a letter of formal notice to Norway on rules restricting the use of foreign registered cars, concluding that the rules were contrary to the free movement of workers and freedom to provide services.

In the sector of *free movement of capital*, the Authority initiated infringement proceedings against **Norway** concerning a restrictive authorisation procedure provided for in the Act on the acquisition of business undertakings. The Authority also commenced an examination of three cases concerning Norwegian rules on investment.

In the *horizontal areas*, 37 new own-initiative cases and two complaints were registered. In the field of labour law, the Authority started to assess the conformity of the *Working Time Directive* (93/104/EC) and the *Protection of Young people Directive* (94/33/EC) in all the EFTA States. As a result letters of formal notice were sent to **Liechtenstein** on both directives.

In the area of consumer protection, the Authority sent three letters of formal notice for failure to fully comply with certain directives. Two of the letters were sent to **Norway** and one to **Liechtenstein**.

In the environment field, the Authority, following the examination of a complaint concerning the intended enlargement of a Ferro silicon plant, sent a letter of formal notice to **Iceland** for failure to apply correctly the *Environmental Impact Assessment Directive* (85/337/EEC). The Authority also addressed comprehensive reporting tasks in the water and air sectors by the EFTA States, and conducted an examination of the national implementing measures of the GMO (Genetically modified organism) directives in **Norway** and **Liechtenstein**.

Concerning company law, **Iceland** and **Norway** have notified full implementation of the basic company law and accounting directives. The Authority has been assessing the conformity of the implementation and sent two letters of formal notice to Iceland on the accounting directives. **Liechtenstein** received nine reasoned opinions as the directives had only been partially implemented, but notified a full implementation of the directives before the end of the reporting period.

In the field of *competition*, 35 cases were pending with the Authority at the beginning of 2000. Seven of these cases related to Article 59 of the EEA Agreement (State measures). In the course of the year, 11 new cases were opened, mostly based on complaints. In total eight cases were closed by administrative means. Thus, by the end of 2000, 38 cases were pending.

The Competition and State Aid Directorate continued to follow market developments in the telecommunications sector. It pursued its *sector inquiry* in the territory of the EFTA States regarding certain aspects of the *telecommunications sector*, as well as pending cases, one of which was closed during the reporting period.

In the course of the reporting period the Authority received three complaints and one notification concerning the **Norwegian** markets for the wholesale and retail supply of *pharmaceuticals* and health care products. These cases have arisen in the context of a regulatory reform which seeks to increase competition

in the Norwegian pharmacy market. The Authority has given priority to these cases and will continue to do so during 2001. The Authority aims to ensure that a sufficient level of competition is maintained both in the wholesale and the retail markets to the benefit of the consumers in terms of lower prices, better choice and better services.

The number of merger cases handled by the European Commission which were subject to the co-operation rules under the EEA Agreement remained high. Examples of such cases were *Volvo's* acquisition of *Scania*; the acquisition by *Industri Kapital* of the **Norwegian** and Swedish speciality chemicals companies, *Dyno* and *Perstorp*; and the acquisition by *Aker Maritime* of a controlling stake in the Anglo-Norwegian company *Kvaerner*. The Authority was also involved in several other cases handled by the Commission, including the Commission's sector inquiry in the field of telecommunications.

The rules concerning the allocation of cases between the two surveillance authorities have been applied and in 2000 resulted in the transfer of cases, both from the Authority to the Commission and from the Commission to the Authority.

A *notice* on co-operation between national competition authorities and the Authority was adopted in 2000.


Significant resources were devoted to work related to the on-going project within the European Union to *modernise the rules of competition*.

In the field of *State Aid*, 36 cases were under examination by the Authority at the beginning of 2000. 17 new cases were opened in the course of the year and 15 cases were closed. Consequently, 38 cases were pending at the end of the year.

The Authority closed a formal investigation procedure against the **Icelandic** *film support scheme* and decided to authorise aid granted under an amended Act on temporary reimbursement of film production costs in **Iceland**.

The Authority opened a formal investigation procedure regarding a *compensation scheme for express bus operators* in **Norway**. The opening of the formal investigation procedure was necessary since the Authority had serious doubts as to the compatibility of the scheme with the EEA State aid provisions and in particular the Authority's State Aid Guidelines on environmental aid.

The Authority also opened a formal investigation procedure with regard to *regional aid* in **Iceland**. The Icelandic authorities should have notified a map of



areas eligible for regional aid to take effect from 1 January 2000. As no aid map had been notified to and approved by the Authority, any regional aid granted in Iceland after 1 January 2000 is unlawful.

In 1999, the Authority initiated an own-initiative case regarding possible aid granted to *Landssíminn*, the Icelandic telecom operator, in connection with the former Post and Telecom Administration's transformation to a public limited liability company. An assessment carried out in Iceland concluded in April 2000 that the company's assets were undervalued by ISK 3.8 billion. Following this conclusion, Landssíminn will repay the amount of ISK 3.8 billion with interest to Iceland. The Authority will carry out a final assessment of the case in the beginning of 2001.

For the second time, the Authority decided to close without further action its examination of the framework conditions for *Den Norske Stats Husbank*, the Norwegian State housing bank. A first decision to close the case was taken in 1997. The complainant in the case decided however to appeal against the decision to the EFTA Court. The Court annulled the Authority's decision on the basis of insufficient reasoning. The second decision was not challenged before the EFTA Court.

The Authority decided to close a complaint alleging that prices on electric power in future contracts between the Norwegian State owned power producer, *Statkraft*, and certain enterprises would be below market prices and that this would be against the State aid rules. Against the background of amendments undertaken by the Norwegian authorities and based on comprehensive information submitted by them as well as

actors in the electricity market, the Authority concluded that the relevant contracts to be entered into would not contain State aid.

The Authority did not raise objections to a notification from Norway on the Norwegian State's involvement with the establishment of an information technology centre *IT-Centre* at Fornebu (the site of the former Oslo Airport). The Authority found that the Norwegian State as an investor would not be in any less favourable position than similar private shareholders and that there was no State aid element in the agreement on the State's sale of land and buildings. The latter conclusion was based on the fact that an original agreed price reduction had been revoked concerning the sale of State property to the IT Centre.

The *State Aid Guidelines* were amended five times during 2000. New or revised guidelines were introduced amongst others for the co-operation between national courts and the EFTA Surveillance Authority in the State aid field, the reference rate of interest and the application of the EEA State aid provisions to State guarantees.

The Authority's staff consisted at the end of the reporting period of 50 persons, of eleven nationalities.

As the employment policy followed by the Authority operates with fixed-term employment contracts of three years, normally renewed only once, six years is the normal employment horizon of staff members. Due to a number of staff terminating their contracts prematurely, a higher turnover than expected took place in 2000.

The EFTA Surveillance Authority was established to ensure, together with the European Commission, the fulfilment of obligations under the EEA Agreement.

Pursuant to Article 21 of the Agreement between the EFTA States on the establishment of a Surveillance Authority and a Court of Justice (the Surveillance and Court Agreement), the Authority is to publish annually a general report on its activities. This is the Authority's seventh Annual Report.

In Section 3 of the Report, basic information is provided on the EEA Agreement and the Authority itself. A number of concepts frequently referred to in the Report are also explained, and a short account of the Authority's information policy and homepage is given.

Section 4 provides reports on the Authority's general surveillance work with respect to the free movement of goods, persons, services and capital. The first part gives statistical information on general surveillance during 1994-2000, including the implementation status of directives, case handling, infringement cases, closures and the Authority's workload at the end of the reporting period. In the following parts, a more detailed account is given, sector by sector, of the implementation and application of the EEA Agreement in the EFTA States, and of the activities carried out by the Authority in ensuring the fulfilment of obligations under the Agreement and for the management thereof. With regard to each sector, a brief introductory overview is also given of the applicable EEA legislation.

Accordingly, as regards free movement of goods, persons, services and capital, and the so-called horizontal

areas, extensive information is given on the Authority's work in controlling the implementation of EEA acts, in particular the transposition of directives, and in dealing with complaints lodged by individuals and economic operators. References are made to the work carried out by the Authority's services to verify the conformity of national implementing measures with the corresponding EEA rules, and to identify deficiencies regarding the implementation and application of the rules by the EFTA States. Furthermore, the Authority's action to ensure the fulfilment of obligations under the Agreement, including formal infringement proceedings, is described. Information is also given on certain procedures administered, and functions carried out, by the Authority in the application of the Agreement, notably in the veterinary field.

In addition to an account of the situation as regards the implementation by the EFTA States of the EEA rules on public procurement, information is given on cases pursued by the Authority concerning the application of the rules.

Sections 5 and 6 contain an overview of the main principles and rules in the fields of competition and State aid respectively, and of the powers of the Authority. An overview of cases handled in 2000 and of non-binding acts (issued in the form of amendments to the Authority's State Aid Guidelines and as notices in the field of competition respectively) is also provided. Co-operation with the European Commission and national authorities is mentioned.

In a new section 7, the appearance of the Authority before the EFTA Court and the European Court of Justice is described.

3.1 THE EUROPEAN ECONOMIC AREA

The EEA Agreement entered into force on 1 January 1994. Following the accession of Austria, Finland and Sweden to the European Union a year later, Iceland and Norway remained for a while the only EFTA States parties to the Agreement. The number of EFTA States was subsequently brought to three when on 1 May 1995, the Agreement entered into force for Liechtenstein. Some basic data on the three EFTA States are contained at Annex I to this report.

The objective of the Agreement is to establish a dynamic and homogeneous European Economic Area, based on common rules and equal conditions of competition. To this end, the fundamental four freedoms of the internal market of the European Community, as well as a wide range of accompanying Community rules and policies, are extended to the participating EFTA States.

Accordingly, the Agreement contains basic provisions - which are drafted as closely as possible to the corresponding provisions of the EC Treaty - on the free movement of goods, persons, services and capital, on competition and other common rules, such as those relating to State aid and public procurement. The Agreement also contains provisions on a number of Community policies relevant to the four freedoms referred to in this Annual Report as horizontal areas - such as labour law, health and safety at work, environment, consumer protection and company law. The Agreement further provides for close co-operation in certain fields not related to the four freedoms.

Secondary Community legislation in areas covered by the Agreement is brought into the EEA by means of direct references in the Agreement to the relevant

Community acts. The Agreement thus implies that two separate legal systems are applied in parallel within the EEA: the EEA Agreement to relations between the EFTA and Community sides, as well as between the EFTA States themselves, and Community law to the relations between the EU Member States. This being the case, for the EEA to be homogeneous the two legal systems must develop in parallel and be applied and enforced in a uniform manner. To this end, the Agreement provides for decision-making procedures for the integration into the EEA of new secondary Community legislation and for a surveillance mechanism to ensure the fulfilment of obligations under the Agreement and a uniform interpretation and application of its provisions.

The task of ensuring that new Community legislation is extended to the EEA in a timely manner rests in the first place with the EEA Joint Committee, a committee composed of representatives of the Contracting Parties. The EEA Agreement was consequently amended by 114 decisions of the EEA Joint Committee during 2000.

While the introduction of new rules within the EEA is thus entrusted to a joint body, the surveillance mechanism is arranged in the form of a two-pillar structure, with two independent bodies. The implementation and application of the EEA Agreement within the Community is monitored by the European Commission, whereas the EFTA Surveillance Authority carries out the same task within the EFTA pillar. In order to ensure a uniform surveillance throughout the EEA, the two bodies co-operate, exchange information and consult each other on surveillance policy issues and individual cases.

The two-pillar structure also applies to the judicial control mechanism. The EFTA Court exercises competences similar to those of the European Court of Justice and the Court of First Instance with regard to,

inter alia, the surveillance procedure regarding the EFTA States and appeals concerning decisions taken by the Authority.

3.2 THE EFTA SURVEILLANCE AUTHORITY

The Authority was established under the Surveillance and Court Agreement, which contains basic provisions on the Authority's organization and lays down its tasks and competences.

3.2.1 Tasks and competences

A central task of the Authority is to ensure that the EFTA States fulfil their obligations under the EEA Agreement. In general terms this means that the Authority is to ensure that the provisions of the Agreement, including its Protocols and the acts referred to in the Annexes to the Agreement (the EEA rules), are properly implemented in the national legal orders of the EFTA States and correctly applied by their authorities. This task is commonly referred to as general surveillance. The general surveillance cases are either initiated by the Authority itself (own initiative cases) or on the basis of a complaint.

When the Authority receives a complaint, it sends the complainant, usually within a month, a letter of acknowledgement of receipt together with information explaining the proceedings for non-compliance with EEA law. The information referred to is reproduced in Annex VII.

If the Authority considers that an EFTA State has failed to fulfil an obligation under the Agreement, it may initiate formal infringement proceedings under Article 31 of the Surveillance and Court Agreement. However, before infringement proceedings are initiated the Authority tries to ensure compliance with the Agreement by other means. In practice the overwhelming majority of problems identified by the Authority are solved as a result of less formal exchanges of information and discussions between the Authority's staff and representatives of the EFTA States.

A salient feature in this respect is the holding of package meetings in which whole ranges of problems in particular fields are discussed. Where appropriate, before concluding this informal phase, and although at this stage the Authority itself has not taken a formal position on the matter, the Directorate concerned may decide to send an informal letter to the EFTA State concerned (Pre-Article 31 letter) inviting it to

adopt the measures necessary to comply with the EEA rule concerned or to provide the Authority with information on the actual status of implementation. If formal infringement proceedings are initiated, as a first step the Authority notifies the Government concerned, in a letter of formal notice, of its opinion that an infringement has taken place and invites the Government to submit its observations on the matter. If the Authority is not satisfied with the Government's answer to the letter, or if no answer is received, the Authority delivers a reasoned opinion, in which it defines its final position on the matter, states the reasons on which that position has been based, and requests that the Government take the necessary measures to bring the infringement to an end. Should the Government fail to comply with the reasoned opinion, the Authority may bring the matter before the EFTA Court, whose judgement shall be binding on the State concerned.

The Authority has extended competences in three fields. They supplement the competences vested in the Authority with regard to general surveillance and fully reflect the extended competences of the European Commission within the Community in these fields.

Thus, with respect to public procurement the Authority is to ensure that utilities and central, regional and local authorities in the EFTA States carry out their procurements in accordance with the relevant EEA rules. To this end, and as an alternative to initiating formal infringement proceedings, if the Authority considers that a clear and manifest infringement has been committed in the award procedure prior to a contract being concluded, it may directly request that the EFTA State concerned correct the infringement.

In the competition field, the tasks of the Authority are directed towards the surveillance of practices and behaviour of undertakings on the market. Thus, the Authority is to ensure that the competition rules of the Agreement are complied with, notably the prohibitions of restrictive business practices and of the abuse of a dominant market position. In carrying out these tasks, the Authority is entrusted with wide powers to request information, including powers to make on-the-spot inspections. In the case of an infringement, the Authority may order the undertakings concerned to bring the infringement to an end. In such cases, the Authority issues a Statement of Objections, which the parties have the opportunity to comment on - in writing and in the form of a hearing. If the Authority is still of the opinion that there is an infringement after the parties have been heard, a final decision is adopted ordering the infringement to be brought to an end. In addition, the Authority may

impose fines and periodic penalty payments for breaches of the competition rules.

With regard to State aid, the Authority is to keep under constant review all systems of existing aid in the EFTA States and, where relevant, to propose to the EFTA States appropriate measures to ensure their compatibility with the Agreement. New aid or alterations to existing aid shall be notified to the Authority. The Authority may decide not to raise any objections to notified measures. Otherwise, it will decide to start an investigation procedure. If the Authority, as a result of its investigation, comes to the conclusion that an aid measure is not in conformity with the Agreement, it will decide that the EFTA State concerned shall abolish or alter the measure. If this does not take place, the Authority may bring the matter before the EFTA Court. Where aid has been granted and paid out without authorisation, the Authority may instruct the Government concerned to recover from the recipient the whole or part of the aid paid out.

To ensure a uniform application of the competition and State aid rules, the EEA Agreement provides for co-operation between the Authority and the European Commission in handling individual cases in these fields, including merger cases. The Agreement also provides for consultations related to proposals for new Community acts in the same areas.

In addition to handling individual competition and State aid cases, the Authority is entrusted with the competence and has the obligation to issue guidelines, notices, or other communications which, without being legally binding, provide guidance for the interpretation and application of the competition and

State aid rules. These various acts, adjusted for EEA purposes, replicate acts issued by the Commission.

Along with the surveillance functions outlined above, the Authority has a wide range of tasks of an administrative character, which match those performed by the European Commission within the Community. Generally speaking, these tasks relate to EEA rules whose proper application is not only subject to the general surveillance function, but to a more direct control by the Authority. The tasks often imply that the Authority, under procedures presupposing an exchange of information between the EFTA and Community sides, is to take measures that are to have an effect throughout the entire EEA.

Thus, an authorisation may sometimes be needed before a product can be lawfully placed on the market and an EFTA State may, under certain circumstances, restrict the free movement of a product in order to protect human health, or the State may in the course of the recognition of a foreign diploma or license introduce a derogation as regards the person's right to choose between an aptitude or an adaptation period, provided that the restrictive measure is notified to, and authorised by, the Authority. Although these kinds of tasks appear in most fields of activity, they are of particular importance in the sector of free movement of goods, notably in relation to technical regulations, standards, testing and certification, and to animal and plant health. In the last-mentioned fields, these tasks constitute a considerable part of the Authority's work and include, for instance, an assessment of the application of the provisions laid down in the acts relating to Border Inspection posts (BIP), fresh meat and meat products and fish. This assessment requires inspections by the Authority to the EFTA States concerned, by which the performance of the State's competent authorities is evaluated and a representative number of approved BIPs, fresh meat and fish processing establishments are visited.

3.2.2 Information Policy

The information policy of the Authority is to provide adequate information on the Authority's activities and on the implementation and application of the EEA Agreement.

In May 2000, the Authority published the Single Market Scoreboard - EFTA States No. 6 and in November the Single Market Scoreboard - EFTA States No. 7 was published. The reports include the Authority's previous Interim Report on Transposition Status of Directives and are issued concurrently with the Commission's Single Market Scoreboard. The EFTA State's Scoreboard deals with the effectiveness of the Single Market rules in the three EFTA States, i.e. the



College. In front from left to right:

Hannes Hafstein, President Knut Almestad, Bernd Hammermann
Behind from left to right: Isabel Tribler, Christina Sand.

implementation by Iceland, Liechtenstein and Norway of the Single Market Directives that are part of the EEA Agreement. The Scoreboard likewise deals with the Authority's infringement proceedings against these States with respect to failures to comply with the relevant Single Market rules.

During the reporting period, the Authority continued to add information directed towards the public on its Homepage. The Homepage contains separate sections for the three EFTA bodies: the EFTA Secretariat, the EFTA Court and the EFTA Surveillance Authority. The Homepage is at: www.efta.int.

Available on that Homepage is information extracted from the Authority's Acquis Implementation Database (AIDA). The aim with AIDA is to provide an up-to-date general overview on the implementation by each of the three EFTA States of all the EEA directives, included in the EEA Agreement. Thus, it contains information on whether a given EEA act has been notified as implemented or not, whether the notified measures are considered to ensure full, or only partial, implementation of the act, and whether the EFTA State has submitted the texts of such measures to the Authority. The full titles of notified measures are also recorded in AIDA. The results of any assessment by the Authority or its services of the conformity of measures with the provisions of a given EEA act are reflected in AIDA. Finally, where appropriate, the database records the latest action taken by the Authority with regard to an identified non-compliance by an EFTA State. The information on the Homepage from AIDA is normally updated once a month.

The Authority's Homepage also contains general information on the Authority's organization and its organizational chart, together with a guide to the Authority in English, German, Icelandic and Norwegian. Vacancy announcements are also placed on the Homepage. Furthermore, there is a section for the Authority's publications, which includes the Annual Reports, the Single Market Scoreboards for the EFTA States, including the Interim Report on Transposition Status of Directives, and the Press Releases from 1994 and onwards. The Authority's Rules of Procedure, Competition Procedures, Information Guidelines, and a description of the Authority's infringement procedures can all be found on the Homepage. The Homepage is updated regularly and the Authority is examining ways of expanding the information on the Homepage. Recent additions to the Homepage include reports on food and veterinary control.

Important features in the Authority's information activities are seminars and lectures for visitor groups on the Authority's activities and other EEA law issues. During 2000, on average two-three visitor groups vis-

ited the Authority's premises each month. These groups comprise students, people from various organizations in the EFTA States as well as officials from governmental bodies and municipalities. The Authority's Legal and Executive Affairs is responsible for the organization of these events.

The Authority has established a set of rules for the handling of requests for access to documents, the Information Guidelines, which may be obtained from the Authority or directly on the Authority's Homepage. Requests for access to documents may be put forward in writing, or even orally. A reply to a request should be provided at the latest within two weeks. In cases where the Authority needs to seek permission from an EFTA State for granting access to a document, a final reply may be expected following the answer from the EFTA State concerned. Such an approval is required in order for the Authority to disclose information relating to formal infringement proceedings against an EFTA State, such as letters of formal notice or reasoned opinions. In practice the EFTA States have been positive towards the Authority's granting access to such documents.

It is the responsible College Member or Director that gives the reply to a request for access to documents. The Authority's contact person with the media will assist those seeking access to documents kept by the Authority, and will transmit the requests to the respective College Member or Director, who will decide on the matter. In view of provisions on business and professional secrecy, or for reasons of protecting certain legitimate public and private interests in, for example, competition cases, certain information cannot be disclosed. It may be noted, however, that nothing prevents a party, whose interests are protected, from making public such documents or information. If access is granted, the document is made available either as a paper copy, or for consultation on the premises of the Authority. In the case of a refusal of access to a document, the person requesting the document may ask in writing for a review by the Authority. The Authority shall decide on the matter within one month and shall state the reasons for its decision.

More or less on a monthly basis the Authority informs the public, by means of a press release, of all reasoned opinions and, in exceptional cases, also of letters of formal notice issued by the Authority.

The Authority's contact person with the media, Ms. Bjarnveig Eiríksdóttir, may be reached during working hours on tel. +32-2-286.18.33 or +32-2-286.18.11 for requests for access to documents and for questions concerning the Authority's activities. Her e-mail address is bjarnveig.eiriksdottir@surv.efta.be.

3.2.3 Organization

3.2.3.1 College

The Authority is led by a College, which is made up of three Members. The Members are appointed by common accord of the Governments of the EFTA States for a period of four years, which is renewable. A President is appointed from among the Members in the same manner for a period of two years.

The Members are to be completely independent in the performance of their duties. They are not to seek or take instructions from any Government or other body, and shall refrain from any action incompatible with their duties. Decisions of the College are taken by a majority vote by its Members.

During 2000 the composition of the College was:

Knut Almestad	President
Hannes Hafstein	
Bernd Hammermann	

The division of responsibilities among College Members is shown at Annex II.

3.2.3.2 Staff and recruitment

The Authority's staff consisted at the end of the reporting period of 50 persons, of eleven nationalities. The manning remained unchanged during the year.

An organizational chart is provided at Annex III.

Staff members are employed on fixed-term contracts normally of three years duration. According to the policy followed by the Authority, contracts may be renewed normally once.

This leads to an employment horizon of six years and some rotation of personnel every year. The rotation principle entails a certain loss of work capacity equivalent to the time it takes to train new staff members. After a rather high turnover in 1999, the 2000 turnover was expected to be considerably smaller. However, as a number of staff ended their contracts prematurely, the actual rotation of personnel came close to that of the preceding year.

The Authority has as in previous years engaged temporary staff to enhance its resources and expertise.

3.2.3.3 Medium Term Plan of the Authority

Spring 2000, the Authority established its third Medium Term Plan, covering the period 2000 - 2002. The Medium Term Plan is an attempt to make a thorough assessment of the Authority's future tasks, including the present workload and backlog situation.

The main conclusion of the third Medium Term Plan is that the Authority's workload is increasing somewhat.

Conformity assessment in the fields of general surveillance, the sectors related to free movement of goods, persons, financial services, transport, health and safety at work and mutual recognition, account for much of the backlog.

In the competition field, updated rules, the inquiry into the telecommunication sector, the high merger activity, the increased focus on State aid in the context of taxation, environmental aid, energy and transportation, add to the workload of the Competition and State aid Directorate.

The inflow of new legislation appears to remain at a high level in all sectors during the plan period.



Administration.

Behind from left to right: Anne Günther, Anne Valkvae, Kjetil Volle, Kristín Anna Jónsdóttir, Thomas Langeland

In front from left to right: Torbjørn Strand Rødvik, Director Dag Harald Johannessen, Jenny Davidsdóttir, Jurg Malm Jacobsen



FREE MOVEMENT OF GOODS, PERSONS, SERVICES AND CAPITAL

4.1 IMPLEMENTATION CONTROL

The objective of the EEA Agreement is to establish a dynamic and homogeneous European Economic Area, based on common rules and equal conditions of competition. To achieve this it is essential that EEA rules are properly and timely implemented in the national legal order of the EFTA States and, in addition, correctly applied by their authorities.

Throughout the year, the Authority continued to apply an *implementation policy* implying that formal infringement proceedings are initiated in accordance with Article 31 of the Surveillance and Court Agreement and the Authority sends an EFTA State a letter of formal notice if that State has not notified implementation of an EEA act within two months from the date by which it should have complied with it. As regards EEA acts that have only been partially implemented, the Authority considers, at regular intervals, whether to initiate formal infringement proceedings against the EFTA State concerned, taking into account the extent to which the act has been implemented and the length of time which the EFTA State has indicated it needs to achieve full compliance with the Act.

An important aspect of the implementation policy is that non-implementation cases will be pursued vigorously so that if national measures are still not adopted and notified within two months from the receipt by the respective EFTA State of the Authority's reasoned opinion, the case will be referred to the EFTA Court without delay, so that the Authority's decision to refer the case is generally taken within *one year* following the initiation of the formal proceedings.

During 2000, the EEA Joint Committee took decisions on the inclusion of 201 new acts in the EEA Agreement. By the end of the year, the total number of binding acts (directives, regulations and decisions) applicable under the Agreement amounted to 2904.

4.2 INFORMATION RELATIVE TO IMPLEMENTATION

In 2000, the Authority continued to issue its *"Interim Report on Transposition Status of Directives"* which included similar tables regarding transposition as the tables set forth in Annex IV to this Annual Report. In addition, the Authority published the *EFTA States' Single Market Scoreboard* in May and November. The Scoreboard deals with the effectiveness of the Single Market rules in the three EFTA States and contains information about the implementation by the EFTA States of the Single Market Directives that are part of the EEA Agreement.

The Authority intends to continue publishing the EFTA States' Single Market Scoreboard and the Interim Report twice a year, thus up-dating the information given in the Annual Report.

Furthermore, up-dated information from the Aquis Implementation Database, AIDA, is to be found on the Authority's homepage (www.efta.int).

4.3 IMPLEMENTATION STATUS OF DIRECTIVES

4.3.1 All directives

By the end of 2000, the total number of directives with a *compliance date* - the date by which the EFTA States have to comply with the directive unless a transitional period has been granted or no implementing measures are necessary - on or before 31 December 2000, was 1424. The table below sets out details on the implementation status of these directives on that date.

The Authority would underline that there is a difference between the respective statistics on the imple-

Implementation status of directives with compliance date on or before 31 December 2000:

IN NUMBERS:

	Iceland	Liechtenstein	Norway
Total number of directives	1424	1424	1424
Directives with effective transition periods	118	145	2
Directives where no measures are necessary ²	82	125	79
Applicable directives	1224	1154	1343
Status			
Full implementation notified	1151	1126	1280
Partial implementation	15	14	31
Non-implementation	58	14	32

IN PERCENTAGES:

	Iceland	Liechtenstein	Norway
Full implementation notified	94.0%	97.6%	95.3%
Full or partial implementation notified	95.3%	98.8%	97.6%

Finally, if the percentage rates of the total number of directives regarding which no national measures had yet been adopted, or which had only been partially implemented (transposition deficit), calculated according to the method used in the Single Market Scoreboard, are presented in the table at the bottom of the page.

The difference in the calculation method is that the total number of directives is compared to not only the directives for which full implementation is notified but also the directives with effective transitional periods and directives where no measures are necessary. On the other hand, directives where only partial implementation has been notified are not counted. In this table, all directives are included, not only the Single Market directives as is the case in the Scoreboard.

mentation status of directives depending on whether account was only taken of the directives regarding which *full* implementation had been notified, or whether *all* the directives regarding which an acceptable notification had been received were considered. In the latter case, both the directives which had been notified as *fully* implemented and those where implementation was only *partial* were included in the statistics.

While the difference between the figures for **Iceland** and **Liechtenstein** is just about one percentage point, for **Norway** it is 2.3 percentage points.

The *progress* in each EFTA State's performance 1997 - 2000 is illustrated in the next three tables.

When account is taken only of directives where *full* implementation has been notified, there has been a marked improvement as compared with the corresponding figures of 1997 for **Liechtenstein**, improving with 11 percentage points. **Iceland** and **Norway** have, however, showed little progress. Iceland's rate of full implementation even went down 1.9 percentage points compared with the 1999 figures.

The picture is different when both the directives where full implementation has been notified and those, which have been only partially implemented, are taken into consideration for an *overall* picture. While all three States improved their performance in 1998 compared to 1997 there was very little progress in 1999. The figures for **Norway** even went down by half a percentage point in that year. During 2000, **Liechtenstein** improved its figures by 0.7 percentage points, while Norway only kept its level and **Iceland's** figures went down by almost two percentage points.

Full or partial implementation of directives notified in 1997-2000:

	Iceland	Liechtenstein	Norway
1997	96.5%	92.2%	97.4%
1998	97.0%	97.9%	98.2%
1999	97.2%	98.1%	97.6%
2000	95.3%	98.8%	97.6%

Full implementation of directives notified in 1997-2000:

	Iceland	Liechtenstein	Norway
1997	93.7%	86.7%	92.4%
1998	94.9%	92.8%	95.4%
1999	95.9%	95.8%	95.0%
2000	94.0%	97.6%	95.3%

Non-implementation of all directives in 1997-2000, Scoreboard method:

	Iceland	Liechtenstein	Norway
1997	5.4%	9.3%	7.6%
1998	4.4%	5.1%	4.3%
1999	3.6%	3.0%	4.8%
2000	5.1%	2.0%	4.4%

² See explanation in Annex IV

As far as the overall situation in respect of non-implemented directives is concerned, **Iceland** and **Liechtenstein** continued in 1999 to improve their performance, but the Norwegian performance deteriorated.

During 2000, Liechtenstein kept on improving its performance, but the Icelandic figure deteriorated by one and a half percentage point. **Norway** improved its performance by almost half a percentage point.

It should be recalled that the fact that an EFTA State has notified a directive as fully implemented, does not necessarily mean that this is the case in practice. It is only after a detailed assessment of the *conformity* of the notified national measures has been carried out that conclusions can be drawn as to the *quality* of the transposition.

By the end of 2000, the Authority is able to conclude with respect to 34% of the directives that were part of the EEA Agreement, that the notified national measures were actually in conformity with the relevant provisions of the directive and that full implementation had thus taken place. The corresponding figure for 1999 was 36%.

4.3.2 Directives to be complied with in 2000

Altogether, 118 directives had a compliance date *during 2000*. Excluding the directives regarding which a transitional period was granted and those where no implementing measures are necessary, **Iceland** was to transpose by the end of the year 108 of these directives, **Liechtenstein** 103, and **Norway** 108.

The implementation status at the end of the year was as presented in the table on this page.

This notification situation with regard to directives becoming applicable during the year should be seen in relation to the fact that the EEA Joint Committee decisions, which incorporate directives into the EEA

Implementation status of directives to be implemented during 2000:

IN NUMBERS:

	Iceland	Liechtenstein	Norway
Total number of directives	118	118	118
Directives with effective transition periods	2	4	1
Directives where no measures are necessary	8	11	9
Applicable directives	108	103	108
Status			
Full implementation notified	57	85	73
Partial implementation	3	5	9
Non-implementation	48	13	26

IN PERCENTAGES:

	Iceland	Liechtenstein	Norway
Full implementation notified	52.8%	82.5%	67.5 %
Full or partial implementation notified	55.6%	87.4%	75.9 %

Agreement, in practice often give the EFTA States either no time, or very little, to take implementing measures on the national level.

Thus, in its decisions taken in 2000, the Joint Committee decided that the decision would enter into force during the year with regard to 58 directives. With regard to 29 of these directives the compliance date for the EFTA States was the next day after the Joint Committee decision. In this context, it could be noted that 10 directives out of these 29 directives were to be complied with in the last quarter of the reporting period.

4.4 CASE HANDLING

An important part of the Authority's work is the handling of individual cases. Such cases may be opened at the Authority's own initiative, or can be based on complaints. Furthermore, cases may be based on obligations in various EEA acts.

Whenever one of the Authority's general surveillance Directorates decides to make an EFTA State's possible non-compliance with EEA rules subject to a closer examination, an *own-initiative* case is registered in the *Authority's General Case Handling Database (GENDA)*.

The Authority also receives complaints from individuals and economic operators reporting measures or practices of the EFTA States which are alleged not to be in conformity with the EEA rules. The respective Directorates then register these cases as *complaints* in GENDA.

It is also possible to open a case in GENDA for *preliminary examination*. A typical situation where a case is opened for this purpose is when a conformity assessment project is initiated, during which the national measures notified by an EFTA State as implementing a directive are considered in detail as explained above. If a preliminary examination reveals that there is a reason to suspect a breach, an own-initiative case is opened. In the opposite situation, an entry is made indicating that the examination has been completed.

In accordance with relevant provisions in certain EEA acts, the Authority carries out so-called *management tasks*, notably in the operation of certain procedures (e.g. information procedures on draft technical regulations and notification procedures relative to product safety), e.g. in veterinary and phytosanitary matters, and in the sector of the free provision of services. Some of these tasks are also registered in GENDA. Similarly, the Authority draws up reports on the EFTA States' implementation or application of certain EEA acts, when such reports are called for in acts in question.

The two tables below illustrate the total number of own-initiative cases and complaints registered in GENDA during the years 1994 to 2000 in the main sectors covered by the EEA Agreement³. For further descriptions of the various sectors referred to in the tables, please consult chapters 4.7 to 4.12. These tables indicate that the total number of new cases has stabilised at around 140 per year.

The vast majority of *own-initiative* cases registered through 2000 was in the goods sector (38), the services sector (30) and in horizontal areas (37). The goods sector saw a marked increase in registered cases of about 50% from 1999, while the other sectors were fairly stable. Over the seven-year period 1994 – 2000, these three sectors have each counted for around 30 % of the total number of cases.

Regarding *complaints* in 2000, these appeared first of all in the free movement of persons and public procurement sectors. The goods sector, the services sector and the horizontal areas sector saw a reduction in the numbers of complaints received during the last year by more than half. When counting the seven-year period 1994–2000, the sectors with the most complaints registered

³ The figures in the following tables represent the situation in GENDA as per 31 December of each reporting year. As it is possible to make changes also after this date, in some cases the figures do not correspond exactly with those given in earlier years.

Own-initiative cases registered in 1994 - 2000:

Sector	1994	1995	1996	1997	1998	1999	2000	Total
FREE MOVEMENT OF GOODS	20	17	42	24	54	25	38	220
FREE MOVEMENT OF PERSONS	1	47	1	0	2	2	0	53
FREE PROVISION OF SERVICES	21	49	26	26	19	31	30	202
FREE MOVEMENT OF CAPITAL	0	1	1	0	2	3	0	7
HORIZONTAL AREAS	14	73	16	16	10	36	37	202
PUBLIC PROCUREMENT	0	0	3	8	5	4	6	26
OTHER SECTORS	2	0	0	0	0	1	0	3
Total	58	187	89	74	92	102	111	713

Complaints registered in 1994 - 2000

Sector	1994	1995	1996	1997	1998	1999	2000	Total
FREE MOVEMENT OF GOODS	12	17	18	16	5	7	3	78
FREE MOVEMENT OF PERSONS	1	8	7	11	15	9	10	61
FREE PROVISION OF SERVICES	0	11	4	1	8	10	4	38
FREE MOVEMENT OF CAPITAL	0	0	0	0	0	0	1	1
HORIZONTAL AREAS	0	0	2	2	4	5	2	15
PUBLIC PROCUREMENT	3	15	14	2	8	8	10	60
OTHER SECTORS	8	2	0	0	0	0	0	10
Total	24	53	45	32	40	39	30	263

were goods, persons and public procurement.

The tables show that cases handled by the general surveillance Directorates are dominated even more than earlier years by those initiated at the Authority's own initiative. In 2000, around 21 % of all cases were based on complaints, as compared to 27 % in 1999, and 27 % as the seven year average (1994-2000).

The next table shows the break-down between own-initiative cases and complaints which involve, on the one hand, an infringement of a basic provision of the *EEA Agreement* (or its Protocols) and, on the other hand, a failure in the implementation or application of an *EEA act* - that is, a directive, a regulation or a decision.

The table shows that there are differences between the sectors, as regards the share of cases concerning the EEA Agreement and the share of cases involving an EEA act. With regard to the provisions of the EEA Agreement, it is first of all those provisions relating to the free movements of goods that generate cases, although the persons sector has a fairly high proportion of its cases relating to the basic EEA provisions (32 %). Overall, only 20 % of the cases relate to the basic provisions of the EEA Agreement, which confirms the trend shown in the five preceding Annual Reports.

Type of own-initiative cases and complaints registered during 1994 - 2000:

Sector	EEA Agreement	EEAAct	Total
FREE MOVEMENT OF GOODS	72	226	298
FREE MOVEMENT OF PERSONS	36	78	114
FREE PROVISION OF SERVICES	37	203	240
FREE MOVEMENT OF CAPITAL	6	2	8
HORIZONTAL AREAS	15	202	217
PUBLIC PROCUREMENT	11	75	86
OTHER SECTORS	13	0	13
Total	190	786	976

As mentioned earlier, a case can also be opened for preliminary examination, and 79 such cases were opened during the reporting year. As can be seen from the table below, there was an increase in such cases in 2000, after a drop in 1999.

The bulk of the *management tasks* consists of handling notifications according to the information procedure on draft technical regulations. In 2000 the Authority received 19 EFTA notifications and 751 EC notifications. Notifications under the emergency procedure on product safety amounted to 228 notifications in 2000 (see Sections 4.7.3.1 and 4.7.3.5 below).

Other management and reporting tasks concern a variety of fields and are registered in GENDA. In 2000, 16 such tasks were registered, as compared with 27 the year before.

Preliminary examinations registered in 1994 - 2000:

Sector	1994	1995	1996	1997	1998	1999	2000	Total
FREE MOVEMENT OF GOODS	0	2	4	13	41	10	10	80
FREE MOVEMENT OF PERSONS	0	0	1	2	10	0	5	18
FREE PROVISION OF SERVICES	0	3	8	5	27	11	36	90
FREE MOVEMENT OF CAPITAL	0	1	0	0	1	0	3	5
HORIZONTAL AREAS	1	2	12	10	18	33	18	94
PUBLIC PROCUREMENT	0	0	0	0	3	7	7	17
Total	1	8	25	30	100	61	79	304

Management tasks and reporting tasks registered in Genda in 1994-2000

	1994	1995	1996	1997	1998	1999	2000	Total
MANAGEMENT TASKS AND REPORTING TASKS REGISTERED	14	2	10	23	16	27	16	108

4.5 INFRINGEMENT CASES

When the Authority takes a decision to initiate formal infringement proceedings and a *letter of formal notice* is sent to the EFTA State concerned, the relevant own-initiative or complaint case, becomes an *infringement case*.

The table below shows the development in the number of letters of formal notice the Authority has sent to the EFTA States during the seven years of operation of the EEA Agreement.

The number of letters of formal notice increased in 2000, up 28 % from 1999. This is mainly caused by a doubling of letters sent to **Iceland** during the reporting year. Iceland also received the highest number of letters of formal notice over the seven-year period 1994 to 2000.

If the Authority, having provided the EFTA State with the possibility of presenting its observations by replying to the letter of formal notice, continues to be of the view that the State is in breach of the EEA Agreement, it shall deliver a *reasoned opinion*. The development regarding this step is set out below.

The number of reasoned opinions dropped slightly as compared to 1999, and was well below the peak of 32 opinions in 1998.

Liechtenstein received nine reasoned opinions, as it did in 1999, while **Norway** saw a drop as compared to 1999. Norway has however received the highest number of reasoned opinions over the seven-year period 1994 to 2000.

If the State fails to comply with the reasoned opinion within the period laid down in it, the Authority may refer the matter to the *EFTA Court*.

No referrals were made during the first two years of the EEA Agreement, and therefore the table below only covers 1996 to 2000.

During 2000, the Authority referred two cases against **Norway** to the EFTA Court. The two cases, one relating to the prohibition of fortified corn flakes and the other concerning the different treatment of alcoholic beverages, are in the field of free movement of goods.

The following table shows the *relationship between the number of cases opened and actions in formal infringement proceedings* over the last seven years. As can be seen, an increasing proportion of the cases results in letters of formal notice, while the number of reasoned opinions is decreasing and the referrals to the EFTA Court remain at very low numbers. This would indicate that the EFTA States to an increasing extent comply with the letters of formal notice they receive from the Authority.

Letters of formal notice sent during 1994-2000:

	Iceland	Liechtenstein	Norway	Total
1994	16	—	14	30
1995	14	11	15	40
1996	32	10	32	74
1997	10	29	19	58
1998	32	25	25	82
1999	25	20	29	74
2000	51	15	29	95
Total	180	110	163	453

Reasoned opinions sent during 1994-2000:

	Iceland	Liechtenstein	Norway	Total
1994	0	—	1	1
1995	6	0	1	7
1996	5	0	8	13
1997	5	4	11	20
1998	7	15	10	32
1999	4	9	10	23
2000	7	9	4	20
Total	34	37	45	116

Cases referred to the EFTA Court in 1996 - 2000:

	Iceland	Liechtenstein	Norway	Total
1996	2	—	0	2
1997	0	0	2	2
1998	0	0	0	0
1999	0	0	1	1
2000	0	0	2	2
Total	2	0	5	7

Cases opened and actions in infringement proceedings

	1994	1995	1996	1997	1998	1999	2000
No. of own-initiative and complaints cases registered during the year	82	240	134	106	132	141	141
Letters of formal notice	30 37%	40 17%	74 55%	58 55%	82 62%	74 52%	95 67%
Reasoned opinions	1 1%	7 3%	13 10%	20 19%	32 30%	23 16%	20 14%
Referrals to the EFTA Court	0 0%	0 0%	2 1,50%	2 2%	0 0%	1 0,70%	2 1,40%

4.6 CLOSURES AND OPEN CASES

The objective of the Authority's informal and formal action is to ensure that the EFTA States fulfil their obligations under the EEA Agreement. As soon as that objective has been reached, the case can be *closed*.

The table below shows that the number of closures of cases opened at the Authority's *own initiative* rose during the year, from 84 in 1999 to 104 in 2000. The goods, services and horizontal areas sectors each closed more than 30 cases.

The table below illustrates that the number of closures of *complaint* cases in 2000 (23) was close to that of 1999 (25). The free movement of goods and the public procurement sector accounted for almost all the closures.

The Authority keeps separate records on cases which have been closed due to the fact that the EFTA State concerned has complied with the Authority's request to *adopt the measures necessary* to remedy the breach in question, and cases which have been closed for *other reasons* (e.g. because the complaint was found not to be justified, or because the explanation provided by the EFTA State in an own-initiative case sat-

Own-initiative cases closed in 1994 - 2000:

Sector	1994	1995	1996	1997	1998	1999	2000	Total
FREE MOVEMENT OF GOODS	0	6	27	28	49	32	32	174
FREE MOVEMENT OF PERSONS	0	0	2	28	1	7	5	43
FREE PROVISION OF SERVICES	0	18	23	40	20	21	32	154
FREE MOVEMENT OF CAPITAL	0	1	0	1	0	0	1	3
HORIZONTAL AREAS	0	3	15	23	40	12	31	124
PUBLIC PROCUREMENT	0	0	0	2	2	12	3	19
OTHER SECTORS	0	0	1	0	0	0		1
Total	0	28	68	122	112	84	104	518

Complaint cases closed in 1994 - 2000:

Sector	1994	1995	1996	1997	1998	1999	2000	Total
FREE MOVEMENT OF GOODS	3	4	9	10	4	8	11	49
FREE MOVEMENT OF PERSONS	0	3	3	5	5	5	0	21
FREE PROVISION OF SERVICES	0	0	1	2	3	0	1	7
FREE MOVEMENT OF CAPITAL	0	0	0	0	0	0	0	0
HORIZONTAL AREAS	0	0	0	0	1	3	1	5
PUBLIC PROCUREMENT	0	7	1	11	7	9	9	44
OTHER SECTORS	0	0	1	0	0	0	1	2
Total	3	14	15	28	20	25	23	128

Open own-initiative and complaint cases in 1994 - 2000:

Sector	1994	1995	1996	1997	1998	1999	2000
Own-initiative cases	58	187	89	74	92	102	111
Complaint cases	24	53	45	32	40	39	30
Closures - Measures taken	3	39	76	122	119	95	103
Closures - Other reasons	0	3	7	28	13	14	24
Open cases at the end of preceding year	0	79	277	328	284	284	316
Open cases at the end of the year	79	277	328	284	284	316	330

ified the Authority that there was actually no breach). The table below shows the development in the closures of *own-initiative* and *complaint* cases during the seven years of operation of the EEA Agreement, as well as in the total number of open cases at the end of each year. The two types of closures are presented separately.

As can be seen, closures of the first category, i.e. cases where the EFTA State concerned has taken the necessary measures, have constantly been the overwhelming majority. In 2000, 81 % of the closures took place as a result of the EFTA State concerned having taken the relevant measures, as compared with 87 % in 1999.

The table shows that the total number of open cases has increased from 316 in 1999 to 330 in 2000, and is now higher than the previous peak in 1996.

However, this does not show the Authority's aggregate case-handling workload in general surveillance. In addition, it has to be taken into account that some *preliminary examination* cases have to be added, this being cases which have neither been completed, nor resulted in an own-initiative case.

4.7 FREE MOVEMENT OF GOODS

4.7.1 Basic Provisions

Rules on the free movement of goods are laid down in Articles 8 to 27 of the EEA Agreement. The basic principles 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) and discriminatory taxation of imported goods (Article 14).

Specific provisions and arrangements on the free movement of goods are set out in a number of protocols to the Agreement and in the acts referred to in

the annexes to the Agreement relating to the free movement of industrial goods, processed agricultural products, and fish and marine products. Two annexes refer to a large number of acts which contain detailed provisions concerning technical requirements for industrial goods, as well as veterinary and phytosanitary rules. Three annexes refer to acts concerning product liability, energy and intellectual property.

4.7.1.1 Customs duties and charges having equivalent effect, and discriminatory taxation

The Authority has, in earlier years, assessed a number of cases with regard to charges imposed by Posten Norge for its services as a forwarding agent in relation to the customs clearance of imported mailed parcels. A further complaint against **Norway** on the matter was received during the reporting period. The case based on that complaint has been closed.

No other cases with regard to customs duties and charges having equivalent effect and discriminatory taxation were dealt with during 2000.

4.7.1.2 Quantitative restrictions and measures having equivalent effect and other technical barriers to trade

With regard to quantitative restrictions and measures having equivalent effect and other technical barriers to trade, a number of complaint cases were outstanding from previous years.

One of these complaints against **Norway** concerns a ban on the import, production and marketing of fortified corn flakes. The Authority issued a reasoned opinion on this matter in 1999. During the reporting period the case was referred to the EFTA Court as the Authority considers that the Norwegian provisions are in breach of Article 11 of the EEA Agreement.

The Authority has been dealing with four complaints regarding alcohol legislation in **Iceland**. New Icelandic legislation on alcohol has been introduced and in 2000, the Authority was able to close the cases.

Since the EEA Agreement entered into force, the Surveillance Authority has received various complaints concerning different aspects of alcohol legislation in **Norway**.

The application of two methods of sale at the retail level, according to which beer with an alcohol content between 2,5% and 4,75% by volume may be sold outside the outlets of the State monopoly, while other beverages with the same alcohol content may only be sold through the State monopoly leads, in the view of the Authority, to discrimination contrary to Article 16 of the EEA Agreement. Furthermore, the Authority considers that the application of more restrictive measures regarding licences to serve certain products, the majority of which are imported, compared with other products containing a similar percentage of alcohol by volume, constitutes a measure having equivalent effect to quantitative restrictions on imports within the meaning of Article 11 of the EEA Agreement. In 2000 this case was referred to the EFTA Court.

The Authority considers that the Norwegian requirements to obtain and maintain licences to import, wholesale and serve alcoholic beverages impose substantial additional costs on the importation of alcoholic beverages and are thus contrary to Article 11 of the EEA Agreement. Moreover, the Authority finds that the requirement of double authorization for restaurants wishing to import alcoholic beverages has an effect equivalent to quantitative restrictions on imports within the meaning of Article 11 of the EEA Agreement. At the end of the reporting period the Authority

received information about the lowering of the annual fees. The Authority will pursue the case in 2001.

The Authority has received a complaint from a producer in one of the Member States of the European Union regarding smoke emission requirements in **Norway** on wood fired stoves. The requirements on emissions of particulates are included in a regulation, which refers to a Norwegian standard. As, in the opinion of the Authority, in the absence of a mutual recognition clause, the requirements constitute a quantitative restriction or measures having equivalent effect within the meaning of Article 11 of the EEA Agreement, a letter of formal notice was sent to Norway in 1999. Norway has, at the end of 2000, announced that it is preparing the introduction of a mutual recognition clause in its regulation. The Authority will revert to the matter in the year 2001.

The Authority delivered a reasoned opinion in 1997 with regard to the system applied by **Norway** for the distribution and showing of films and video tapes. This system included requirements for the registration and labelling of video tapes, the registration of importers and producers of video tapes and municipal licensing for the distribution of video tapes. The Norwegian legislation was amended at the end of 1999. The case was closed during the reporting year.

One complaint, received in 1999, dealt with the aspects of the decision by **Iceland** to establish a health sector database concerning free movement of goods. The case was closed in 2000.



Goods Directorate:

Behind from left to right:
Ingela Söderlund,
Sólveig Georgsdóttir,
Ketil Rykhus,
Erik Jónsson Eidem,
Director Lilja Vidarsdóttir,
Daniel Vidarsson,
Adinda Batsleer,
Thomas Langeland,
Nicola Holsten

In front from left to right:
Gunnar Thór Pétursson,
Jón Gíslason,
Lars-Åke Erikson,
Brynjulf Melhuus

Not present:
Inger-Lise Thorkildsen

4.7.2 Secondary legislation with regard to technical regulations, standards, testing and certification

Acts with regard to technical regulations, standards, testing and certification are referred to in Annex II to the EEA Agreement, which includes 32 chapters dealing with various subject areas. The situation in the different areas, which is presented also in tabular form in Annex IV to this report, is as follows:

During the reporting period, 12 new directives were to be complied with in the field of *motor vehicles*. The Authority sent several letters of formal notice and reasoned opinions as a result of delayed transposition of some of these directives.

Iceland notified full implementation of the *Directive on certain components and characteristics of two or three-wheel motor vehicles* (97/24/EC), the *Directive relating to measures to be taken against air pollution by emissions from motor vehicles and amending Directive 70/220/EEC* (98/69/EC), and the *Directive adapting to technical progress Directive 70/387/EEC relating to doors of motor vehicles and their trailers* (98/90/EC) during the reporting period. A reasoned opinion had been sent during the year concerning all the Acts.

Furthermore, **Iceland** received letters of formal notice with regard to the *Directive adapting to technical progress Directive 70/311/EEC relating to steering equipment for motor vehicles and their trailers* (1999/7/EC), the *Directive relating to motor vehicles and their trailers intended for the transport of dangerous goods by road and amending Directive 70/156/EEC relating to the type approval of motor vehicles and their trailers* (98/91/EC), the *Directive adapting to technical progress Directive 93/33/EC on protective devices intended to prevent the unauthorized use of two- or three-wheel motor vehicles* (1999/23/EC), the *Directive adapting to technical progress Directive 93/32/EEC on passenger hand-holds on two-wheel motor vehicles* (1999/24/EC), the *Directive adapting to technical progress Directive 93/34/EEC on statutory markings for two- or three-wheel motor vehicles* (1999/25/EC), and the *Directive adapting to technical progress Directive 93/94/EEC relating to the space for mounting the rear registration plate of two or three-wheel motor vehicles* (1999/26/EC). At the end of the reporting period Iceland notified all of the above mentioned acts to be fully implemented.

In addition, **Norway** and **Iceland** received letters of formal notice with regard to the *Directive adapting to technical progress Directive 80/1269/EEC relating to the engine power of motor vehicles* (1999/99/EC), the

Directive adapting to technical progress Directive 80/1268/EEC relating to the carbon dioxide emissions and the fuel consumption of motor vehicles (1999/100/EC), the *Directive adapting to technical progress Directive 70/157/EEC relating to the permissible sound level and the exhaust system of motor vehicles* (1999/101/EC), and the *Directive adapting to technical progress Directive 70/220/EEC relating to measures to be taken against air pollution by emissions from motor vehicles* (1999/102/EC). **Iceland** and **Norway** notified all of these acts to be fully implemented at the end of the reporting period.

As can be seen in Annex IV to this report, no notifications have been received from **Liechtenstein** and **Norway** in respect of the *Directive adapting to technical progress Directive 77/541/EEC relating to safety belts and restraints systems of motor vehicles* (2000/3/EC), and from **Iceland** and **Norway** with regard to the *Directive adapting to technical progress Directive 96/79/EC on the protection of occupants of motor vehicles in the event of a frontal impact* (1999/98/EC). Both acts were to be complied with in the last quarter of the reporting period.

In the area of *agricultural and forestry tractors*, seven new directives were to be complied with within the reporting period.

Iceland received letters of formal notice with regard to the *Directive adapting to technical progress Directive 74/152/EEC relating to the maximum design speed and load platforms of wheeled agricultural or forestry tractors* (98/89/EC), the *Directive adapting to technical progress Directive 78/933/EEC relating to the installation of lightning and light-signalling devices on wheeled agricultural and forestry tractors* (1999/56/EC) and the *Directive adapting to technical progress Directive 79/533/EEC relating to coupling and reversing devices for wheeled agricultural or forestry tractors* (1999/58/EC). At the end of the reporting period Iceland notified all of the above mentioned acts to be fully implemented.

Furthermore, **Iceland** and **Norway** received letters of formal notice with regard to the *Directive adapting to technical progress Directive 79/622/EEC relating to roll-over protection structures of wheeled agricultural or forestry tractors* (1999/40/EC), the *Directive adapting to technical progress Directive 77/536/EEC relating to the roll-over protection structures of wheeled agricultural or forestry tractors* (1999/55/EC), and the *Directive adapting to technical progress Directive 78/764/EEC relating to the driver's seat on wheeled agricultural or forestry tractors* (1999/57/EC). At the end of the reporting period Iceland notified all of these acts to be fully implemented. No notification had been received from Norway.

In addition, **Iceland** and **Norway** had not notified implementing measures for the *Directive adapting to technical progress Directive 89/173/EEC as regards certain components and characteristics of wheeled agricultural or forestry tractors* (2000/1/EC). Norway has not notified implementing measures with regard to the *Directive adapting to technical progress Directive 75/322/EEC relating to the suppression of radio interference produced by spark-ignition engines fitted to wheeled agricultural or forestry tractors and Directive 74/150/EEC relating to the type-approval of wheeled agricultural or forestry tractors* (2000/2/EC), both of which were to be complied with by the end of the reporting period.

In the area of *lifting and mechanical handling appliances*, **Iceland** notified a full implementation of the *Directive relating to lifts* (95/16/EC) for which a reasoned opinion was sent during the first half of the reporting period. Thereby, notifications of implementation have been received from all the EFTA States regarding the directives in this area.

In the field of *household appliances*, a reasoned opinion was delivered to **Iceland** due to non-transposition of the *Directive implementing Directive 92/75/EEC with regard to energy labelling of household lamps* (98/11/EC). This Act was to be complied with in 1999. Implementation measures were subsequently notified and the case could be closed.

The *Directive on energy efficiency requirements for household appliances* (96/57/EC), which was integrated into the EEA Agreement in 1997, was to be complied with in the year 2000. However, at the end of the reporting period, **Iceland** had not notified implementation measures for the Act.

In the chapter on *gas appliances*, the measures notified by **Iceland** for implementing the *Directive relating to appliances burning gaseous fuels* (90/396/EEC) were during the reporting period found to be in conformity with the provisions of the said Act.

In the chapter on *pressure vessels*, the *Directive concerning pressure equipment* (97/23/EC) was to be complied with in 1999. **Iceland** was sent a letter of formal notice in 1999 followed by a reasoned opinion during the reporting period. The Authority received subsequently notification of transposition measures, and the case could be closed.

In the chapter on *measuring instruments*, the measures notified by **Iceland** for implementing several directives relating to different aspects of measuring instruments (Directives 71/316/EEC, 71/317/EEC, 71/318/EEC, 71/319/EEC, 71/347/EEC, 71/348/EEC, 71/349/EEC, 73/362/EEC, 74/148/EEC, 75/33/EEC, 75/106/EEC, 75/107/EEC, 75/410/EEC, 76/211/EEC, 76/765/EEC,

76/766/EEC, 76/891/EEC, 77/95/EEC, 77/313/EEC, 78/1031/EEC, 79/830/EEC, 80/181/EEC, 80/232/EEC, 86/217/EEC and 90/384/EEC), were found to be in conformity with the provisions of the said Acts, with the exception of two directives (75/106/EEC and 77/313/EEC), where the national measures need to be further addressed.

In the chapter on *electrical material*, a letter of formal notice was sent to **Iceland** with regard to the *Directive adapting to technical progress Directive 82/130/EEC concerning electrical equipment for use in potentially explosive atmospheres in mines susceptible to firedamp* (98/65/EC).

The transitional period that **Liechtenstein** had been granted for implementing the whole chapter on *foodstuffs* expired on 1 January 2000. Liechtenstein has implemented all relevant acts on foodstuffs, including those that have been incorporated into the EEA Agreement in 2000 and that were to be complied with within the reporting period.


Norway notified full implementation of the *Directive on Quantitative Labelling of Ingredients* (97/4/EC), which should have been complied with in 1998. Norway and **Iceland** notified implementing measures for the *Directive on Derogations from the Quantitative Labelling of Foodstuffs* (1999/10/EC). Finally, **Norway** notified implementing measures for the *Regulation on Aflatoxins in Nuts and Cereals* (1525/98/EC).

Iceland transposed in the reporting period two regulations on organic production (330/1999/EC and 1900/98/EC). However, neither Iceland nor **Norway** have notified implementing measures for the *Regulation on Organic Production* (1804/1999/EC) *supplementing Regulation 2092/91/EEC*.

Norway transposed fully the *Directive on Infant Formulae and Follow-on Formulae* (91/321/EEC), which had been the subject of formal proceedings. However, implementing measures for *Directive 96/4/EC amending Directive 91/321/EEC* and for the *Directive on Foods for Particular Nutritional Uses* (96/84/EC), with a subsequent amendment to that Directive (1999/41/EC), had not been notified by the end of the reporting period.

The EFTA States have implemented the acts on pesticide residues which were to be complied with during the year. This includes *Directive 1999/71/EC* for which a letter of formal notice had been sent to **Iceland**. Iceland also notified implementing measures for three acts on pesticide residues, which have not yet been incorporated into the EEA Agreement.

At the end of the reporting period only **Liechtenstein** had notified implementing measures for the *Directive*



on *Plastic Materials and Articles* (1999/91/EC). The Directive should have been implemented in **Norway** and **Iceland** before the end of 2000.

According to the provisions of several EEA acts, the EFTA States are obliged to report their monitoring plans and/or results from official control and monitoring of pesticides and certain contaminants to the Authority. In order to facilitate the reporting of monitoring data the Authority proposed to the Competent Authorities the use of an Annual Calendar that listed obligations on reporting and the dates by which the Authority should receive reports from the EFTA States.

The European Commission also recommends annually to the EU Member States a co-ordinated control programme for the official control of foodstuffs and a co-ordinated monitoring programme to ensure compliance with maximum levels of pesticide residues in and on foodstuffs. The Authority recommends corresponding programmes to the EFTA States. The programmes for 2001 could not be finalised before the end of the reporting period since a first draft for a co-ordinated EC control programme on official control in 2001 was not presented until December 2000 and the EC monitoring programme on pesticides was not finalised until the end of December.

Under the *Directive on the Official Control of Foodstuffs* (89/397/EEC), only **Norway** reported data on the co-ordinated control programme for 1999 based on the Authority's recommendation on a co-ordinated control programme. However, both **Iceland** and **Norway** reported data on the national programmes laying down the nature and frequency of inspections carried out in 1999.

The EFTA States reported the results of national monitoring of pesticide residues in 1999 based on two directives on *pesticide residues* (86/362/EEC and 90/642/EEC), but only **Norway** implemented the Authority's recommendation on co-ordinated monitoring programme for 1999. The monitoring results from **Norway** and **Iceland** were forwarded to the European Commission for inclusion in the 1999 report on the monitoring of pesticide residues in the European Union and the EEA/EFTA States.

At the end of 2000 the Authority received the plans on the national pesticide monitoring programme for 2001 from **Iceland** and **Liechtenstein**.

The EFTA States also reported on the monitoring of the levels of nitrate in lettuce and spinach in 1999 in compliance with the provisions of the *Regulation setting maximum levels for Contaminants in Foodstuffs* (194/97/EC). These results were forwarded to the Commission for inclusion in a report on nitrate mon-

itoring and re-evaluation of the maximum levels for nitrate in that Regulation.

In the field of *medicinal products*, several new acts concerning the European Agency for the Evaluation of Medicinal Products (EMA) became operational as part of the EEA Agreement in January 2000. These acts introduce new procedures regarding the marketing authorisation of medicinal products within the EEA.

In the case of **Norway** the Authority received notification of full implementation of the *Directive extending the scope of Directives 65/65/EEC and 75/319/EEC and laying down additional provisions for radiopharmaceuticals* (89/343/EEC), concerning which a letter of formal notice had previously been sent in 1999. It also received notification of full implementation of the *Directive on Wholesale Distribution* (92/25/EEC), and the *Second Directive on Proprietary Medicinal Products as amended* (75/319/EEC), for which reasoned opinions were also sent in 1999. These cases were closed during the reporting period.

In addition, cases concerning the *Directive on Medicinal Products* (65/65/EEC), and the *Directive on the Labelling of Medicinal Products for Human Use and on Package Leaflets* (92/27/EEC), in which letters of formal notice had been sent to **Norway** in 1998, were closed during the reporting period.

During the reporting period the Authority continued its correspondence with **Norway** regarding the *Directive relating to the transparency of measures regulating the pricing of medicinal products for human use and their inclusion in the scope of national health insurance systems* (89/105/EEC), concerning which a reasoned opinion was sent in 1999. The Authority will examine the case further in 2001.

Iceland notified full implementation of the *Directive relating to the transparency of measures regulating the pricing of medicinal products for human use and their inclusion in the scope of national health insurance systems* (89/105/EEC), during the reporting period. A letter of formal notice had been sent concerning this act in 1999.

By the end of the reporting period, **Iceland** and **Norway** had not notified implementing measures for the *Directives amending the Annex to Directive 75/318/EEC relating to analytical, pharmacotoxicological and clinical standards and protocols in respect of the testing of medicinal products* (1999/82/EC and 1999/83/EC), which were to be complied with during the last quarter of the reporting year.

In the chapter on *dangerous substances* **Iceland** notified full implementation of the *Directive on CMT restrictions* (97/56/EC) for which a letter of formal notice had been sent in 1999.

The *Regulation on Export and Import* (2247/98/EC) was not implemented in **Iceland** and **Norway** in 1999. In the reporting period Iceland notified full implementation of the Regulation while Norway notified only partial implementation.

Two directives on Good Laboratory Practice (GLP) were incorporated into the EEA Agreement in the reporting period. Letters of formal notice concerning these were sent to **Iceland** and **Norway** for non timely implementation. At the end of 2000 Iceland notified full implementation of the *Directive on GLP* (1999/11/EC) and the *Directive on Inspection of GLP* (1999/12/EC). Norway notified incomplete implementation of these directives.

At the end of the reporting period three directives on technical adaptations to the *Substance Directive* (67/548/EEC) were incorporated into the EEA Agreement. For one of these directives, the 21st technical adaptation (94/69/EC), **Iceland** had previously notified incomplete implementing measures. No other notification had been received from the EFTA States on implementation of this Directive or the 22nd (96/54/EC) and the 23rd (97/69/EC) technical adaptations.

No information had been received from **Iceland** and **Norway** by the end of the reporting period regarding the *Regulation on Testing Requirements for Chemicals* (2161/1999).

The management tasks related to the notification of new substances, as stipulated in the *Directive on Chemical Substances* (92/32/EEC), are carried out by **Iceland** and **Liechtenstein** in collaboration with competent authorities in other EEA States. **Norway** continued to participate actively in the notification scheme during 2000. Further information on the chemicals procedures is in the text on notification procedures for chemicals.

In the field of *environment protection*, all the EFTA States have notified full implementation of the *Directive on Packaging and packaging waste* (94/62/EC). During the reporting period the Authority had further working contacts with **Iceland** and **Norway** with regard to the assessment of the two States' national measures. The Authority will revert to the matter in 2001.

In the chapter on *information technology*, the *Directive on radio equipment and telecommunications terminal equipment and the mutual recognition of their conformity*

(1999/5/EC) was to be complied with during the reporting period. All the EFTA States notified full implementation of the act during the reporting year.

In the chapter on *construction products*, seven Commission Decisions relating to the procedure for attesting the conformity of construction products pursuant to Article 20(2) of the *Directive on construction products* (89/106/EEC) were integrated into the EEA Agreement during the reporting period.

In the field of *machinery*, implementation of the *Directive relating to machinery* (98/37/EC) is still outstanding in **Iceland**. According to a notification forecast received from the Icelandic Authorities, this Act was to be complied with and notified during the last quarter of the year 2000. However, by the end of the reporting period, no such notification had been received.

By the end of the reporting period neither **Iceland** nor **Norway** had notified implementation measures for the *Directive relating to measures against the emission of gaseous and particulate pollutants from internal combustion engines to be installed in non-road mobile machinery* (97/68/EC), which was to be complied with by the end of 1999.

In the field of *cultural goods*, **Iceland** has only partially implemented the *Directive on the return of cultural objects unlawfully removed from the territory of a Member State* (93/7/EEC). The Authority had sent a letter of formal notice in 1999 and was during the reporting period informed by Iceland that new legislation, fully implementing the Act, would be adopted in the first quarter of 2001. *Directive 96/100/EC* amending Directive 93/7/EEC was notified as fully implemented by **Liechtenstein**. The Authority has been informed by **Iceland** and **Norway** that full implementation is foreseen for the spring of 2001.

In 1999 the Authority sent a questionnaire to the three EFTA States, based on a questionnaire that the European Commission had sent to the EU Member States earlier in the year with a view to preparing a report on the application of Directive 93/7/EEC. The replies received from all three EFTA States revealed that, due to the short time the Directive had been in force in these States, no cases existed which could form the basis for an evaluation of its application. This was due to the fact that none of the States had received requests from other EEA States for return of cultural objects, nor had any of them submitted such a request. Therefore, no report was published by the Authority.

In the field of *recreational craft*, the Authority had detected some shortcomings in the implementation of the *Directive relating to recreational craft* (94/25/EEC) in

the case of **Iceland**. Iceland notified revised legislation during the reporting period in the field and it no longer seems necessary to pursue this matter further.

In the chapter on *medical devices*, the *Directive on in vitro diagnostic medical devices* (98/79/EC) was integrated into the EEA Agreement in 1999 and was to be complied with during the reporting period. However, only **Liechtenstein** has notified implementation measures concerning this Act.

Finally, to complete recording of the chapters of Annex II to the EEA Agreement, notifications of implementation have been received from all EFTA States regarding the directives in the areas of construction plant and equipment, other machines, textiles, fertilisers, cosmetics, general provisions in the field of technical barriers to trade, personal protective equipment, toys, tobacco and explosives for civil use.

4.7.3 Operation of certain procedures

4.7.3.1 Information procedure on draft technical regulations

The *Directive on an Information Procedure on Draft Technical Regulations* (98/34/EC), as adapted for the purpose of the EEA Agreement introduces a procedure by which the EFTA States shall notify the Authority of draft technical regulations. Upon notification, a three month standstill period is triggered during which the Authority and the other EFTA States, as well as the European Commission, may comment on the notified draft regulation. Notifications are examined to establish whether they contain provisions which might 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 are in conflict with EEA secondary legislation.

Within the framework of this information procedure, the Authority received 19 notifications from the EFTA

States during 2000; 15 notifications from **Norway** and four from **Iceland**. In three cases the Authority made comments on the notifications and in five cases comments from the Commission were forwarded. Out of the 19 notifications, six were made in the field of safety of ships, four concerned telecommunications, two concerned pharmaceuticals and chemicals respectively, and one relating to fertilisers, foodstuffs, feedingstuffs, firearms and animal diseases respectively. During the reporting period the Authority received comments from the Commission in three cases of notifications from the year 1999.

In 2000 the Authority received 751 notifications from the EU side, none of which led to single co-ordinated communications being transmitted to the European Commission. However, in the reporting period single coordinated communications concerning two notifications from 1999 were transmitted.

During the reporting period the Authority discovered that in two cases one each from **Iceland** (concerning the concept of medicinal products) and **Norway** (regarding requirements on fishing vessels) draft technical regulations had not been notified. Both States did notify draft texts intended to replace the non-notified regulations at the end of the year.

Preparatory work is under way in the EEA Joint Committee to integrate Directive 98/48/EC amending Directive 98/34/EC into the EEA Agreement. That Directive widens the notification obligation to draft rules on Information Society Services. It has been in force in the EU since August 1998.

4.7.3.2 National measures derogating from the principle of free movement of goods

The *Decision establishing a procedure for the exchange of information on national measures derogating from the principle of the free movement of goods* (3052/95/EC), came into force under the EEA Agreement in 1998. The Act provides that the EFTA States must notify the

Draft technical regulations:

	EFTA notifications	Comments from the Authority	EC notifications	Single Coordinated Communications
1994	61	30	389	4
1995	8	6	438	3
1996	30	5	522	3
1997	12	6	900	3
1998	37	13	604	3
1999	18	4	591	2*)
2000	19	3	751	0

*) transmitted in 2000

Authority of any national measure impeding the free movement of goods, when the person responsible for the product invokes its compliance with the regulation in force in another EEA State where it is lawfully produced or marketed. During 2000 the Authority received 65 notifications from EU Member States. The notifications were forwarded to the EFTA States. No notifications were received from the EFTA States. The Authority has had contacts with the EFTA States in order to promote active participation by the EFTA States in this notification procedure.

4.7.3.3 Notification procedures on chemicals

The chemicals procedures form an integral part of the evaluation and control of the risks of new and existing chemicals. The notification procedures are divided into the following schemes: notification of new substances according to the *Directive on Substances* (92/32/EEC), the *Directive on Preparations* (88/379/EEC) and the *Directive on Risk Assessment of New Chemicals* (93/67/EEC); notification of existing substances according to the *Regulation on Existing Substances* (793/93/EEC) and the supplementing *Regulation on Risk Assessment* (1488/94/EC); and notification according to the *Export/Import Regulation* (2455/92/EEC).

These procedures entail technical, scientific and administrative work for the Authority and the EFTA States in collaboration with the European Chemicals Bureau (ECB) and the EU Member States. The scientific and technical tasks in relation to the procedures are carried out by ECB.

Norway has been active in this scheme from the beginning and in 2000 completed the notification of new chemicals (92/32/EEC) on the Norwegian market, which are not found in the European Inventory of Existing Commercial Chemical Substances (EINECS). Norway has notified a total of 22 substances, 13 in the previous year and nine Non-EINECS substances in 2000.

Liechtenstein has informed the Authority that there are no Non-EINECS substances on the market produced by Liechtenstein producers. No information was received on imported chemicals or chemical products and the Authority has not received any information on Non-EINECS substances from **Iceland**. Iceland has made arrangements concerning the operation of this procedure with the competent authority in Denmark and Liechtenstein with the competent authority in Germany.

The programme on data collection, priority setting and risk assessment based on the *Regulation on Existing Substances* (793/93/EEC) started in 1993. Rapporteurs

had been designated for 110 existing substances requiring attention. These appear on the first three priority lists published in previous years because of their potential effect on man and the environment. The fourth priority list was published in October 2000 as Commission Regulation 2364/2000/EC. At the end of 2000 the first draft Risk Assessment Reports had been completed on 78 out of the 110 substances listed on the first three priority lists. **Norway** is a rapporteur for the whole European Economic Area for risk assessment of several of these substances.

4.7.3.4 Foodstuffs

During 2000 the EFTA States did not notify any specific measures to the Authority under the procedures laid down in the *Regulation on Contaminants* (315/93/EEC) and the directives on the *Hygiene of Foodstuffs* (93/43/EEC) and on *Labelling of Foodstuffs* (79/112/EEC). The procedures allow the EEA States to introduce national provisions that are more specific than those laid down by these acts, provided that they are notified.

4.7.3.5 Product Safety

The notification procedure laid down by Article 8 of the *General Product Safety Directive* (92/59/EEC) provides for the application of an emergency procedure regarding the rapid exchange of information in cases of serious and immediate risk to the health and safety of consumers. Article 7 of the Directive also introduces a general safeguard procedure, which is applicable insofar as there are no specific provisions in rules of Community law governing all the safety aspects of products. This procedure has to date exclusively been used for non-food products.

In 2000 the Authority received 22 notifications from the EFTA States under the emergency procedure, 18 relating to foodstuffs and four to non-food products. In eight of the 18 notifications concerning foodstuffs the described products originated in the EU, in the others the products originated in third countries. In 14 of the cases, the products were blocked at border in the notifying EFTA State. In all cases the nature of the danger was microbiological. A total of 206 notifications were received from the European Commission of which 91 pertained to the non-food network and 115 to the foodstuffs network. The Authority processed 283 additional notifications and follow-up information on measures relating to products already notified. The EFTA States participated actively in the procedure by presenting several reactions to the notifications received.

Five notifications under the general safeguard procedure were received from the Commission, but none

The Emergency Procedure:

	EFTA notifications			EC notifications		
	Food	Non food	Total	Food	Non food	Total
1994	2	2	4	9	6	15
1995	4	0	4	12	15	27
1996	1	0	1	15	53	68
1997	2	2	4	67	52	119
1998	0	0	0	74	47	121
1999	6	3	9	91	100	191
2000	18	4	22	115	91	206

from the EFTA States. In addition, the Authority forwarded 37 non-alert notifications from the Commission. The General Product Safety network is used for these, although the Directive does not lay down an obligation to notify, regarding voluntary withdrawals of unsafe non-food products. One such notification was received from an EFTA State.

The Rapid Alert System for Food, set up under the General Product Safety Directive, is also used for distributing non-alert notifications for information purposes, as described in the Vademecum on the Rapid Alert System For Food. The criteria for such notifications are either that the product is unlikely to cause serious health consequences, or that the product has been blocked at the border for sanitary reasons (covering also veterinary products in the absence of an equivalent notification system). The number of these non-alert notifications has increased considerably in 2000. The Authority forwarded 29 non-alert notifications from EFTA States, more than two times as many as in 1999. Of these, 28 related to rejections at the border of animal products which all presented microbiological risks, mainly originating in third countries, whereas one concerned the voluntary withdrawal of a product already on the market. The Authority also forwarded 314 non-alert notifications received from EU Member States.

The Authority, in collaboration with representatives from the European Commission, has assessed the operation of the Rapid Alert System for foodstuffs and non-food products in **Iceland, Norway and Liechtenstein**. The assessment, based on a questionnaire prepared by the European Commission, took the form of meetings in Brussels at the end of 1999 for Iceland and Norway and a written procedure for Liechtenstein. After receiving comments on the draft reports from the EFTA States, the final reports concerning the food sector were published on the Commission's home page under their CIRCA system

(Communication & Information Resource Centre Administrator) in 2000, together with corresponding reports from the EU Member States. The final reports from the meetings with the EFTA States concerning the non-food sector were distributed to the National Contact Points in all EEA States.

The European Commission introduced a web site in 2000 within the CIRCA system where all notifications under the foodstuffs network are uploaded. Instead of receiving the notifications by electronic mail, the Member States now download them directly from this web site. The Authority initiated a trial period for the National Contact Points of the EFTA States during the year, and it is foreseen that in 2001 the CIRCA system will replace earlier communication methods.

4.7.3.6 Safeguard measures with regard to unsafe products in accordance with specific Directives

During the reporting period, the Authority received two notifications of safeguard measures taken under Article 9 of the *Low Voltage Directive* (73/23/EEC) from **Iceland**. 126 notifications were received from EU Member States under the same Directive. Furthermore, 13 information communications on unsafe products were received from Iceland and seven from EU Member States. Three notifications were received from EU Member States relating to the *Directive on Personal Protective Equipment* (89/696/EEC). The Authority received four notifications from the European Commission under the *Directive concerning products which, appearing to be other than they are, endanger the health or safety of consumers* (87/357/EEC), which are distributed within the General Product Safety network. Furthermore, three Commission Opinions were received regarding safeguard measures under the *Directive on the safety of toys* (88/378/EEC) and two under the *Directive on gas appliances* (90/396/EEC), which were distributed to the EFTA States.

4.7.3.7 Notification of conformity assessment bodies

All new approach directives and some of the old approach directives provide for the involvement of notified bodies as third parties in conformity assessments of products or production. Such bodies may be testing laboratories, inspection bodies, certification bodies or approval bodies. They are notified by the EEA States as being competent to carry out conformity assessments of specific products or families of products, as set out in the relevant Directives. These notifications are forwarded to the European Commission, which publishes them, together with the notifications received from the EU Member States, in the Official Journal of the European Communities. In 2000, the Authority received one notification concerning such conformity assessment bodies from **Iceland** and four from **Norway**.

4.7.4 Other rules in fields related to the free movement of goods

4.7.4.1 Energy

The Internal Market for Electricity Directive (96/92) became applicable under the EEA Agreement in July 2000. **Norway** notified the Authority of the national measures implementing the Directive during the reporting period. **Iceland** and **Liechtenstein** have an additional period of two years to comply with the Directive.

4.7.4.2 Intellectual Property

The *Directive on the legal protection of databases* (96/9/EC), for which the fulfilment of constitutional requirements had been awaited, was to be complied with during the reporting period. All the EFTA States notified the act as fully implemented.

Furthermore, **Iceland** notified measures implementing Article 4 of the *Directive on rental rights and lending rights and certain rights related to copyright in the field of intellectual property* (92/100/EEC). **Norway** notified measures implementing Article 8(2) of that same act, to enter into force in the year 2001.

4.7.5 Veterinary and phytosanitary matters

During the first half of 2000 the Authority continued its focus on the inspection of Border Inspection Posts (BIPs) in **Iceland** and **Norway**. During the second half of 2000 the Authority put more emphasis on implementation controls and inspections of fresh meat and fish establishments. No new acts were integrated into Chapter I of Annex I to the Agreement during the year.

4.7.5.1 Legislation

The revised Annex I, which is divided into three Chapters, contains some one thousand acts, out of which around three hundred are Directives, with some transitional periods. The acts in the veterinary field (Chapter I) not related to fishery products do not apply to **Iceland**. **Liechtenstein** had a transitional period until 1 January 2000, with regard to all the acts in that chapter and negotiations on prolonging that period are still under way.

4.7.5.2 National transposition

The conformity assessment of the national measures concerning veterinary issues under Annex I continued throughout the year and revealed shortcomings in the legislation implementing the acts regulating *veterinary checks on products imported from third countries* (97/78/EC), *production and marketing of fresh meat* (64/433/EEC), *fresh poultry meat* (71/118) and *milk and milk products* (92/46/EEC). These shortcomings are in the process of being corrected by the respective EEA States.

As a follow-up to the letter of formal notice sent to **Norway** in 1999 for non implementation of the *Directive on measures to monitor certain substances and residues thereof in live animals and animal products and repealing Directives 86/358/EEC and 86/469/EEC and Decisions 89/187/EEC and 91/664/EEC* (96/23/EC), the Authority sent a reasoned opinion for failure to ensure full compliance with the Directive. Norway informed the Authority that all the national legislation necessary to ensure full compliance would be in place from the beginning of February 2001.

The Authority also invited Norway to submit information about the national measures taken to implement the acts regulating identification and registration of bovine animals and for the acts related to bovine spongiform encephalopathies.

In 1999 **Iceland** applied for additional guarantees to the requirements laid down in the *Directive concerning the animal health conditions governing the placing on the market of aquaculture animals and products* (91/67/EEC) for five different fish diseases. The Authority is processing the application. However, for some of the diseases the process is awaiting the outcome of an evaluation by the European Commission of the general policy for granting additional guarantees for animal diseases within the European Union.

An application for an approval of **Norway** as one coastal zone free of two mollusc diseases is being processed.

Norway notified implementation of all the acts in the feedingstuffs and seeds sectors. Letters of formal



notice were sent to **Iceland** for failure to implement Directives 95/55/EC, 96/7/EC, 96/24/EC, 95/69/EC, 96/51/EC, 96/66/EC, 97/6/EC, 97/72/EC, 97/40/EC, 96/25/EC, 95/53/EC and 97/47/EC in the feedingstuffs sector.

Norway applied for derogations for some of the plants contained in the seeds directives which are not growing in Norway. That request is being processed.

4.7.5.3 Application of the Agreement

Products processed by establishments handling fresh meat, meat products, poultry meat, farmed game meat, eggs, milk and fish, as well as on factory vessels are, under the EEA Agreement, subject to strict veterinary rules motivated by objectives of public health and consumer protection. If the establishments or vessels have been approved by the national competent authority in an EEA State, in accordance with the relevant EEA Act, the products could be placed on the entire EEA market without any further veterinary checks.

Paragraph 4 of the introductory part of Chapter I of Annex I to the EEA Agreement lays down the principles to be applied by the Authority in carrying out on-the-spot inspections in the veterinary field. This implies, *inter alia*, that such inspections shall be carried out in accordance with programmes equivalent to those of the Community, that the same criteria shall apply to inspections, that information concerning inspections shall be exchanged between the European Commission and the Authority and that the follow-up of the inspections shall be co-ordinated between the Commission and the Authority. The inspections of Border Inspections Posts (BIPs) should also be made in close co-operation with the European Commission. In conformity with these principles, co-operation between the inspection services of the Authority and the Commission continued.

During the first half of the reporting period the Authority concentrated mainly on inspections of BIPs in **Iceland** and **Norway**. In addition it visited both States twice to check the application of the *Directive relating to fishery products* (91/493/EEC). During the first visit the Authority mainly inspected fish establishments approved by national authorities in order to verify that they were, in fact, complying with the relevant EEA provisions. During the second visit the Authority concentrated more on the performance of the Competent Authorities. Similar visits were made to Norway with regard to fresh meat establishments. Draft reports from these missions were submitted to the relevant States at the end of the reporting period.

The Authority's final reports from inspections are available on the Authority's Homepage on the internet (www.efta.int). One of these reports relates to the application in **Norway** of the *Residues Directive* (96/23/EC), in which the Authority, among others, concluded that co-ordination of the monitoring of residues was not in accordance with the Directive. Furthermore, sampling for analysing was incomplete and treatments of animals on farms were sometimes initiated without necessary information being registered in the registers on the farms.

In the final reports from the inspections to all BIPs in **Iceland** and **Norway**, which were performed and reported on in close co-operation with the Commission, the Authority's inspectors recommended actions to be taken by the EFTA States in the light of their findings during the inspections.

Both EFTA States received recommendations that they suspend imports from non-listed third country vessels. Following this recommendation Iceland amended its national legislation to the effect that the Minister of Fisheries could ban import of products coming from non-listed third country freezer vessels. The Norwegian authorities stated that they would be prepared to stop imports from non-listed vessels if the same kind of imports into other EEA States were suspended.

The Commission takes decisions listing the vessels from which import is allowed. These lists have been incorporated into the EEA Agreement by the Contracting Parties. The Authority considered it important to a homogeneous EEA to work closely with the Commission with regard to surveillance on this issue and will continue to do so.

It was, furthermore, recommended to both EFTA States that exchange of information and all routines related to imports through BIPs be either established or enforced in order to prevent the release of consignments without the proper veterinary checks being carried out. Subsequently, both EFTA States informed the Authority that steps had been taken to improve information procedures and that co-operation between the authorities responsible for import through BIPs had been reinforced.

Iceland followed the inspectors' recommendation to suspend the operation of all its inspection centres. Later in the year the Authority was informed that Iceland intended to establish certain BIPs in the same places. **Norway**, which also closed down one BIP and a number of inspection centres at the recommendation of the Authority's inspectors, applied at the end

of the reporting period for the establishment of three additional BIPs.

The Authority's reports to the two EFTA States contained a number of additional recommendations. For a full account of these recommendations and the reactions to them from Iceland and Norway please see www.efta.int/structure/SURV/efta-srv.cfm, Publications, Veterinary Issues – Control Matters.

Finally, in relation to the application of the acts on Veterinary issues (Annex I to the Agreement), the Authority did not receive all the information that Iceland and Norway were obliged to submit on a regular basis or within the time limits set out in the relevant acts.

4.8 PUBLIC PROCUREMENT

4.8.1 General overview

The main objective of the provisions in the EEA Agreement on public procurement is to oblige contracting authorities and entities within the EEA to apply certain procedures when procuring supplies, services and works with a value exceeding given thresholds. This is in order to secure equal treatment of all suppliers, service providers and contractors established within the EEA. As a general rule, notices on contracts to be awarded shall be published in the Official Journal of the European Communities and in the database Tender Electronic Daily (TED). In addition, public procurement complaint bodies must be established at a national level.

In the field of public procurement, work related to the monitoring of the application of the procurement rules continued to be the main task of the Authority in 2000. The Authority was also able to assess cases initiated in the previous years, thereby closing a number of cases where satisfactory solutions had been found. In addition, own initiative cases for possible failure to apply the procurement rules correctly were opened, or preliminary examinations initiated. With a view to safeguarding the interests of potential suppliers and service providers, the Authority continued its practice of ensuring the correction of non-compliance with the procurement legislation through immediate contacts with national authorities before contracts had been concluded.

Providing information and guidance for the understanding of the EEA procurement rules, both to the contracting entities and to suppliers, proved to be an important part of the Authority's work in the pro-

curement field. The European Commission's services have been consulted on a number of topics related to the interpretation of the EEA procurement rules. The Authority also continued to take part in the meetings of the EU Advisory Committee on Public Procurement.

4.8.2 National implementing measures and conformity assessment


The amending *Public Procurement Directive (GPA)* (97/52/EC) and the amending *Utilities Procurement Directive (GPA)* (98/4/EC) were incorporated into the EEA Agreement during the reporting period. **Norway** notified the Authority of the national measures transposing those directives. Not having received any notifications from **Iceland** and **Liechtenstein**, the Authority initiated formal infringement procedures against these States for non-implementation of the directives. Liechtenstein notified the Authority of its implementing measures at the end of 2000.

Furthermore, a letter of formal notice was issued in respect of **Iceland** for failure to correctly implement the *Supply Directive* (93/36/EEC) and the *Service Directive* (92/50/EEC), as the Icelandic Coast Guard Act provides that these directives need not be applied to certain award procedures initiated to meet its Coast Guard's needs.

4.8.3 Application of the rules on public procurement

In the course of 2000, the Authority examined a total of 48 cases including preliminary examinations relating to the application of the EEA procurement rules. Of these, 22 cases were closed, either because it was concluded that infringement had not taken place or, because the EFTA State concerned took corrective measures. One case concerned a management task, see section 4.8.4 below. At the end of 2000 the Authority had 25 open cases in the field of public procurement.

During the year ten new cases were formally registered on the basis of complaints and a further six on the Authority's own initiative. In addition, the Authority initiated seven preliminary examinations. Six complaints were filed against **Norway**, two against **Liechtenstein**, and two against **Iceland**. Of the cases opened on the Authority's own initiative, two concerned Norway, two Iceland, and two Liechtenstein. By comparison, during the previous year, the Authority received five complaints against Iceland, three against Norway and none against Liechtenstein.



One complaint against **Norway** related to the award of a contract to an in-house unit that did not take into account VAT when comparing an in-house bid with external bids. In the view of the Authority a contract within the meaning of the *Service Directive* (92/50/EEC) had not been awarded as the contracting authority opted to provide the service tendered for itself. The case was consequently closed and the complainant informed of the reasons thereof.

Another complainant claimed that a contracting authority was about to award a contract for the construction of two nursing homes without applying the provisions of the *Works Directive* (93/37/EEC). Norway informed the Authority that the works contracts would be awarded in compliance with the *Works Directive* (93/37/EEC), and that the award procedure subject to the complaint was in fact a below-threshold service contract for the planning of the projects. The Authority will continue its examination of the case during 2001.

One complainant claimed that the Norwegian Government failed to respect the provisions of the procurement directives by not applying the directives to contracts awarded in-house in the state sector. *Inter alia*, the complaint concerned the interpretation of "the State" as a single contracting authority. The Authority will continue its examination of the case during 2001.

Another complainant claimed that a series of framework contracts awarded by the Norwegian Government were not contracts within the meaning of the procurement directives and that the award procedure was not, therefore, in compliance with the procurement directives. The Authority will continue its examination of the case during 2001.

One complainant claimed in general terms that the EEA rules on public procurement had been infringed with regard to an award procedure for road signs and similar goods. The Authority requested the tender documents and other relevant information, and received these late in December 2000. The Authority will continue its examination of the case during 2001.

Finally, the Authority received a complaint with regard to an award procedure for a design contest, following which the winner would be awarded a subsequent public service contract for engineering and architectural services in relation to the restoration of a building. The award procedure had not been published in the Official Journal of the European Communities/TED. The complainant alleged that the aggregated value of remuneration for the design contest and the subsequent service contract would exceed the applicable

threshold value and consequently the provisions of the *Service Directive* (92/50/EEC) had been infringed. After the Authority's intervention the award procedure was cancelled.

The Authority also sent a letter of formal notice to Norway with regard to a case based on a complaint received earlier concerning the use of criteria for the selection of service providers and award criteria. The case will be pursued by the Authority in 2001.

In the course of 2000 the Authority opened own initiative cases against Norway regarding the use of the negotiated procedure for the award of contracts.

One related to the use of the negotiated procedure for the award of a service contract. The Authority issued a letter of formal notice for infringement of the provisions in the *Service Directive* (92/50/EEC) relating to the choice of award procedure. The Authority did not receive a reply from Norway during the reporting period.

The Authority requested Norway to provide justification for the use of a negotiated procedure for the award of a supply contract. In the communications provided by Norway, the contracting authority claimed that the contract was a works contract and that the negotiated procedure was justified by the derogations provided for in the *Works Directive* (93/37/EEC). After having examined the case the Authority concluded that the award procedure in question was a supply contract and that the use of negotiated procedure was not justified. Norway then informed the Authority that the award procedure had been cancelled and that a new procedure would be initiated in accordance with the *Supply Directive* (93/36/EEC).

In the course of 2000 the Authority received two complaints against **Iceland**.

One concerned an award procedure for hospital equipment, in which the complainant claimed that the payment terms required by the contracting authority infringed the procurement rules. The Authority did not complete its examination of the case during the reporting period.

The other concerned an award procedure relating to a public service contract for collection and removal of household refuse, which had not been published in accordance with the provisions of the *Service Directive* (92/50/EEC). The complainant alleged that the value of the contract exceeded the applicable threshold value and that the contracting authority had consequently failed to comply with the provisions of the directive by not publishing in the Official Journal

of the European Communities/TED. The Authority will continue its examination of the case during 2001.

The Authority issued a letter of formal notice in respect of Iceland, concerning a case opened in 1999, for failure to apply the provisions of the *Supply Directive* (93/36/EEC) to the award of a contract for the supply of street surface products. The Authority was in the process of assessing the Icelandic reply at the end of the reporting period.

Finally, the Authority completed its examination of a case concerning a Health Sector Database in Iceland. In a complaint received in 1999, it was claimed that the award of the rights to operate such a database amounted to a service contract within the meaning of the *Service Directive* (92/50/EEC). The Authority found, however, that the right to establish and operate the database had the characteristics of a service concession, the award of which does not fall within that Directive.

In the course of 2000 the Authority received two complaints against **Liechtenstein** concerning the same award procedure for a public transportation contract. The Authority issued a letter of formal notice for failure to respect the distinction between selection criteria and award criteria. The Authority began examination of the reply from Liechtenstein, but did not complete its examination of the case during the reporting period.

In 2000 the Authority continued its efforts to carry out general surveillance by screening the tender notices published in the Official Journal of the European Communities' Supplement "S" and the equivalent national official journals.

Special attention was given to the use of the negotiated procedure, which is meant to be used in exceptional circumstances only.

4.8.4 Management Tasks

During the reporting year, the Authority completed its examination of the applicability of Article 8 of the *Utilities Procurement Directive* (93/38/EEC). The examination followed the publication of a notice on 30 October 1999 inviting contracting entities in the telecommunications sector in the EFTA States to notify the EFTA Surveillance Authority, under Article 8(2) of the *Utilities Procurement Directive* (93/38/EEC) of any telecommunications services they regarded as being excluded from the scope of the Act. On the basis of the answers received in late 1999, and the Authority's own assessment of the competitive situation in the telecommunications market, the Authority adopted a decision on 22 November 2000⁵ which had

the effect of exempting telecommunications operators in **Norway** and **Iceland** from the application of the *Utilities Procurement Directive* (93/38/EEC). In relation to **Liechtenstein**, the Authority found that only procurement activities relating to the provision of public mobile telephony could be exempted. In other fields, such as fixed telephony, the Authority found that sufficient competition did not exist for Article 8 of the Directive to be applicable. A notice was forwarded to the Official Journal of the European Communities and the EEA Supplement thereof, and is expected to be published early in 2001.

Two complaints against telecommunications operators in Norway and Iceland were subsequently closed as the Authority found it justifiable that the *Utilities Procurement Directive* (93/38/EEC) had not been applied to the award procedures in question.

4.9 FREE MOVEMENT OF PERSONS


4.9.1 Free Movement of Workers

Freedom of movement for workers entails the abolition of any discrimination based on nationality between workers of the EEA States as regards employment, remuneration and other conditions of work and employment. This includes the right to accept offers of employment actually made, to move freely within 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.

4.9.1.1 Implementation control

By virtue of Protocol 15 to the EEA Agreement on transitional periods on the free movement of persons, **Liechtenstein** had the right to maintain in force until 1 January 1998 national provisions submitting entry, residence and employment to prior authorization. In 1997, Liechtenstein started negotiations with the European Commission on further transitional measures from 1 January 1998 onwards. The negotiations were completed in 1999 and in December 1999 the EEA Joint Committee, by Decision No. 191/1999, added new special adaptations to Annex V (free movement of workers) and Annex VIII (right of establishment) to the EEA Agreement applicable to Liechtenstein until 31 December 2006. The decision entered into force in June 2000. For the period in between, Liechtenstein applied safeguard measures pursuant to Article 112 and 113 of the EEA

⁵ Decision 320/COL/00.



Agreement. The Authority will continue its implementation control by assessing the conformity of the notified Liechtenstein legislation with the Acts referred to in Annex V and VIII, as adapted.

4.9.1.2 Complaints

In the reporting period, the Authority continued with the examination of 11 cases based on complaints lodged with the Authority in 1999 or earlier. Furthermore, in 2000, the Authority received three new complaints.

With regard to a complaint from 1997 against **Norway** on taxation rules discriminating against EEA nationals working in Norway and commuting to their families residing in another EEA State the Norwegian Government notified legislative measures adopted in 1999. The assessment of the new legislation, which took effect as of the income year 1998 and the monitoring of its application continued in 2000.

Related hereto, the Authority received another complaint against **Norway** in October 2000 alleging a breach of Article 7 of the *Regulation on Free Movement of Workers* (1612/68/EEC) by application of the mentioned discriminatory taxation rules to the income year 1997. At the end of the reporting period the case was still under examination.

A complaint against **Norway**, registered in 1998, concerning the refusal to grant a British citizen an unlimited certificate as "Dekksoffiser klasse 1" which would allow him to be employed as master of a Norwegian fishing vessel, was solved in 1999 on an individual basis. The Authority continued to monitor the case in the reporting period. The same applies to a similar complaint lodged against **Norway** by a Swedish captain in 1998 who was refused to be employed as captain of a Norwegian ship on nationality grounds. The Norwegian Ministry informed the Authority in 1999 that an exemption had been granted to the nationality restrictions enabling the employment of the complainant. The examination of both cases was in the final stage at the end of the reporting period.

In 1998, the Authority received a complaint against **Iceland** from a Spanish national, formerly employed as lecturer at the University of Iceland. He alleged that he had been subject to discrimination on grounds of nationality regarding his dismissal and his application for a new post at the university. At the end of the reporting period the examination of the case was coming to an end.

In 1998, a complaint against **Liechtenstein** was lodged with the Authority where a Dutch national alleged discriminatory restrictions on the access to housing in

Liechtenstein. After expiry of the transitional period on 1 January 1999, Liechtenstein notified to the Authority full implementation of its obligations under Article 40 of the EEA Agreement on the free movement of capital. The examination of the case was in the final stage at the end of the year.

A complaint against **Liechtenstein** lodged in 1998 concerning alleged discriminatory requirements regarding access to a traineeship at the Liechtenstein courts, remained open at the end of the reporting period.

Another complaint was brought against **Liechtenstein** in 1999 for alleged discrimination on grounds of nationality regarding right of residence, right of establishment, social security, and labour law. The complaint was under examination at the end of the reporting period.

A complaint, which had been lodged with the Authority in 1999 against **Iceland** from a French hospital nurse with regard to alleged discrimination as to remuneration and other working conditions, was further examined in 2000.

In 1999, the Authority received a complaint against **Norway** for alleged breach of Article 3 of the *Directive on Public Policy, Public Security or Public Health* (64/221/EEC). The complainant had been expelled from Norway after having been sentenced to imprisonment for importation of prohibited drugs. The Authority requested further information from Norway at the end of the reporting period.

A similar complaint was registered in 1999 against **Norway**. An Austrian national was refused a residence permit and expelled from Norway on the alleged grounds that his travel document had expired. The case was still under examination at the end of the reporting period. At the end of the reporting period, the Authority requested further information from Norway.

In 1999, a complaint was lodged with the Authority against **Norway** alleging that the Norwegian rules on residence were hindering the free movement of persons and the right to take up residence in another EEA State. According to the complainant, Norwegian rules on residence registration prohibit him from taking up residence in another EEA State. The Authority is still examining whether to proceed further with this case.

The Authority received in January 2000 a complaint against **Norway** from a Swedish migrant worker claiming that Norwegian rules on tax and import duties on vehicles imported to Norway amounted to a restriction on the free movement of workers. At the end of

the reporting period the complaint was still under examination.

Finally, in December 2000, a complaint was lodged with the Authority against **Norway** by an Icelandic flight controller who was refused employment in Norway on grounds of nationality.

4.9.2 Mutual recognition of professional qualifications

Under Article 30 of the EEA Agreement, the Contracting Parties shall take the necessary measures concerning the mutual recognition of diplomas, certificates and other evidence of formal qualifications, as well as the taking up and pursuit of activities by workers and self-employed persons. To that end, the directives in Annex VII to the Agreement lay down provisions on mutual recognition of professional qualifications and thus facilitate the right of establishment and the provision of services.

4.9.2.1 Implementation control

In December 1999, the Authority referred a case on partial non-implementation of the *Second General System Directive* (92/51/EEC) by **Norway** to the EFTA Court. The Court decided the case in June 2000. It confirmed that provisions requiring the issue by a doctor approved by the Norwegian authorities of health certificates as precondition to pursuing activities in the seafaring sector, amounted to an infringement of the EEA Agreement. Following the judgment and amendments to the relevant Norwegian rules the case was closed.

In the case of similar Icelandic provisions, the Authority started in 1999 formal infringement proceedings against **Iceland** for not fully implementing the *Second General System Directive* (92/51/EEC). Upon Iceland's notification and further clarification of amended legislation the Authority closed the case in September 2000.

Formal infringement proceedings by the Authority with regard to the general implementation of the *Second General System Directive* (92/51/EEC) by **Liechtenstein** were, in principle, terminated in October 2000. However, examination regarding the profession of auditors and trustees falling within the scope of the Directive will continue in 2001.

As regards the *Lawyers' Services Directive* (77/249/EEC) the Authority received a notification of full implementation by **Liechtenstein** in February 2000 after formal infringement proceedings had been started in 1998 and a reasoned opinion sent in 1999. The Authority closed the case in June 2000.

In October 1999, the Authority sent a letter of formal notice to **Iceland** for not complying with the *Various Activities Directive* (75/368/EEC) regarding the profession of librarian. Iceland informed the Authority in April 2000 that legislation would be changed with legislative procedures starting in autumn 2000. The Authority's examination of the case will continue in 2001.


In 1998, **Liechtenstein** notified national measures implementing a number of directives regarding the medical professions, namely the *Doctors Directive* (93/16/EEC), the *Dentists Directive* (78/686/EEC), the *Nurses Directive* (77/452/EEC), the *Veterinarians Directive* (78/1026/EEC), the *Pharmacists Directive* (85/433/EEC) and the *Acquired Rights in Medical Professions Directive* (81/1057/EEC). With regard to the *Nurses Directive* (77/452/EEC) the Authority was informed that the legislative procedures will continue in 2001. As far as the *Veterinarians Directive* (78/1026/EEC) is concerned, in September 2000, the Authority received a notification of full implementation. After examination the case was closed in December 2000. For the other directives, Liechtenstein informed the Authority about delays in the adoption of the transposing national legislative acts. Implementation is expected in February 2001. With regard to *Directive* (97/50/EC) amending the *Doctors Directive* (93/16/EEC) the Authority initiated examination for non-implementation by Liechtenstein in February 2000 which will continue in 2001.

The Authority continued its conformity assessment that started in 1999 regarding the implementation measures in **Liechtenstein** of the *Midwives Directive* (80/154/EEC) and the *Architects Directive* (85/384/EEC). With regard to the *Midwives Directive* (80/154/EEC) Liechtenstein informed the Authority that delays were expected in adoption of the transposing national legislation. Implementation is expected in February 2001. Liechtenstein informed the Authority that as regards the legislative amendments necessary for full implementation of the *Architects Directive* (85/384/EEC), implementation is expected in 2001.

4.9.2.2 Complaints

In the reporting period the Authority received three complaints from individuals.

A complaint received by the Authority in January 2000 concerned the alleged refusal of a nursing licence by the Icelandic Ministry of Health and Social Security to a British citizen who is a psychiatric nurse. The refusal was on the ground that the complainant has not completed general nursing studies. The Authority sent a letter to **Iceland** and asked for further information. Based on Iceland's information that an admin-



istrative decision had not been taken but that the procedure still continued the Authority rested the case. At the end of the reporting period no administrative decision had yet been adopted. The Authority will continue to monitor the case in 2001.

In June 2000, the Authority received a complaint from an Icelandic national with an Icelandic qualification as carpenter and housebuilder alleging a refusal by the Norwegian authorities of a licence as a carpenter. The Authority informed **Norway** about the complaint and requested further information from the complainant in order to be able to assess his case.

A complaint on an alleged non-recognition of the British title "Bachelor of Science" as equivalent to the Norwegian academic title "sivilingeniør" was lodged with the Authority in December 2000. The Authority informed **Norway** and requested further information. Examination of the case will continue in 2001.

4.9.2.3. Management tasks

The Authority is expected to carry out several management tasks in the field of mutual recognition. One such task is provided for in the *Architects Directive* (85/384/EEC). A diploma falling under the *Architects Directive* (85/384/EEC) shall be automatically recognized by other EEA States if it fulfils certain qualitative and quantitative criteria and has been published according to the Directive. A new diploma from an EFTA State must be communicated simultaneously to the EFTA Surveillance Authority and to all EEA States. The Authority and the individual States have the opportunity of raising doubts as to whether the communicated diploma meets the criteria of the Directive. If doubts are raised, the EFTA Surveillance Authority will convene an EFTA advisory committee to give its opinion on the diploma.

In 1999, **Liechtenstein** communicated a new diploma in Architecture to the Authority. Following examination of the new diploma and a favourable opinion by the EFTA advisory committee the Authority decided in November 2000 to publish the diploma according to the Directive.

4.9.3 Right of establishment

4.9.3.1 Implementation control

By virtue of Protocol 15 to the EEA Agreement on transitional periods on the free movement of persons, **Liechtenstein** had the right to maintain in force until 1 January 1998 national provisions submitting entry, residence and employment to prior authorization. In 1997, Liechtenstein started negotiations with the European Commission on further transitional measures from 1 January 1998 onwards. The negotiations

were completed in 1999 and in December 1999 the EEA Joint Committee, by Decision No. 191/1999, added new special adaptations to Annex V (free movement of workers) and Annex VIII (right of establishment) to the EEA Agreement applicable to **Liechtenstein** until 31 December 2006. The decision entered into force in June 2000. For the period in between, Liechtenstein applied safeguard measures pursuant to Article 112 and 113 of the EEA Agreement. The Authority will continue its implementation control by assessing the conformity of the notified Liechtenstein legislation with the Acts referred to in Annex V and VIII, as adapted.

4.9.3.2 Complaints

In the reporting period the Authority continued to examine nine cases which were registered in 1999 or earlier. The Authority received one new complaint.

Based on two complaints regarding a single practice rule for doctors and dentists the Authority started formal infringement proceedings against **Liechtenstein** in 1998. The single practice rule implies that a doctor or dentist, once established in a particular EEA State, would only be able to enjoy the freedom of establishment under the EEA Agreement in Liechtenstein by abandoning the establishment s/he already has. Liechtenstein considered the rule a non-discriminatory, suitable, and appropriate measure to ensure the preservation of the Liechtenstein health system. In April 2000, the Authority sent a reasoned opinion to Liechtenstein for failure to comply with Article 31 of the EEA Agreement. In July 2000, the Authority was informed that the Liechtenstein Administrative Court (*Verwaltungsbeschwerdeinstanz*), in which similar cases were pending, had asked the EFTA Court for a preliminary ruling on the interpretation of Article 31 of the EEA Agreement as regards the single practice rule. The Court is expected to deliver its decision in 2001. The Authority is resting the case until then.

In 1998, the Authority received two complaints against **Liechtenstein** concerning a residence requirement for EEA nationals who wanted to establish a business in that State. The law applicable at the time required that a self-employed person who wants to establish a business or set up agencies, branches, or subsidiaries in Liechtenstein must reside in that State or employ a manager residing in that State in order to obtain a trading license. A third complaint, registered in 1998, concerned a similar provision of Liechtenstein law, which requires that in order to register a company in Liechtenstein the owner must reside in the State or appoint a representative residing there. In 1999, the Authority sent a letter of formal notice to Liechtenstein for failure to comply with Article 31 of the EEA Agreement in all three



Persons, Services and Capital Movements Directorate:

Behind from left to right: Grete Ytterdal, Ragnhild Behringer, Vincent Kronenberger, Ásta Magnúsdóttir, Charlotte Schaldemose, Andrea Weiß - In front from left to right: Øyvind Vidnes, Tor Arne Solberg-Johansen, Director Jónas Fr. Jónsson, Hallgrímur Ásgeirsson - Not present: Anne-Louise Resberg

cases. Liechtenstein was requested in November 2000 to submit further information.

Related hereto are formal infringement proceedings against **Liechtenstein**, which the Authority started in 1999. The matter concerned a provision in Liechtenstein's law, which required that an architect residing in another EEA State who wishes to set up a business in Liechtenstein must appoint a manager residing in that State. At the end of the reporting period Liechtenstein informed the Authority that the law concerned had been amended. Formal notification by Liechtenstein is expected in 2001.

In 1998, the Authority received two complaints against **Liechtenstein** alleging discriminatory restrictions on the freedom of establishment for doctors and dentists. The complainants had been refused to establish themselves in Liechtenstein with reference to Liechtenstein's legislation requiring a balanced proportion between Liechtenstein nationals and foreigners in the profession concerned. Liechtenstein argued that the provision referred to is in accordance with its obligations under the EEA Agreement taking into account Article 112 of the EEA Agreement and Protocol 15 thereto. In February 2000, the Authority sent, in both cases, a letter of formal notice to Liechtenstein for failure to comply with Article 31 of the EEA Agreement. The Authority continues to examine the case.


In a complaint, lodged with the Authority in February 2000, a German dentist claims restrictions to his right of establishment in **Liechtenstein**. He was made subject to the single practice rule and refused the right of residence in Liechtenstein. The complainant who was granted the status of frontier worker claimed *inter alia* a breach of Liechtenstein's standstill obligation under the EEA Agreement by amending the provisions on priority categories of persons eligible for a residence permit, which placed him in a less favourable group of priority. Examination of the case continues in 2001.

As regards a complaint against **Norway**, registered in 1998, concerning the refusal by the Norwegian authorities to permit an increase in the number of beds in a private hospital, the Authority will continue its examination in 2001.

In 1999, a complaint was lodged against **Norway** for alleged discriminatory legislation and practice as regards allocation of licenses within the sector of aquaculture business. In October 2000, the Authority sent a letter of formal notice to Norway, concluding that rules giving priority to local ownership were contrary to Article 31 of the EEA Agreement.

4.9.4 Social security

Article 29 of the EEA Agreement obliges the EEA States to secure for workers and self-employed persons and



their dependants, as provided for in Annex VI to the Agreement, in particular the 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 several countries, and the payment of benefits to persons resident in the territories of those States.

In 1995, 1997 and 1999, the Authority registered three complaints against **Norway** concerning the question whether an EEA national working on the Norwegian continental shelf and residing in another EEA State should be covered by the co-ordination system of the Regulation on Social Security of Migrant Workers (EEC) No 1408/71.

In September 1999, the Authority delivered its reasoned opinion on the first complaint concluding that **Norway** was in breach of Article 13(2)(a) of Regulation 1408/71 since EEA nationals, who were involved in working activities related to exploration for or exploitation of petroleum resources, gas resources or other natural resources on the Norwegian continental shelf, were prevented from being affiliated with the Norwegian National Insurance Scheme as long as they did not reside in Norway or in another Nordic State.

The second complaint concerned a worker in the same circumstances except for the fact that the worker in question resided in a Nordic State. In accordance with the rules of the Nordic Convention on Social Security, the person was affiliated with the Norwegian National Insurance Scheme but was not entitled to family allowances due to the residence requirement under the Norwegian Family Allowances Act.

The Authority considered this to contravene the EEA Agreement, as a worker to whom Article 73 of Regulation 1408/71 applies and who resides in another EEA State than the State of employment is entitled to family benefits as if he/she and the family member in question were residing in the latter. Therefore, in November 1999, the Authority sent a letter of formal notice for failure to comply with Regulation 1408/71.

In May 2000, the Authority was informed that **Norway** undertook to amend its legislation and a Bill was to be presented to the Norwegian Parliament before the end of the year. The amendments, which should bring the legislation in conformity with the EEA Agreement, will be examined in 2001.

The third complaint concerning the continental shelf was similar to the second one, except that the complainant in question did not reside in a Nordic State.

The complaint was still under examination at the end of the reporting period.

In 1999, the European Commission forwarded a complaint against **Norway**, alleging non-compliance of the Norwegian legislation and practice on family allowances with regard to Regulation 1408/71. The complainant, a frontier worker who worked in the Norwegian region of Finnmark, was granted family allowances from Norway, but the competent Norwegian authorities refused to grant a special supplement, "Finnmarkstillegget". The reason was that the children concerned did not live in the region of Finnmark.

In October 2000, the Authority sent a letter of formal notice to the Norwegian Government for failure to comply with Regulation 1408/71. In its reply, the Norwegian Government indicated that it did not agree with the Authority's assessment. The case will be examined further in 2001.

In February 2000, the Authority received a complaint, forwarded by the Commission, against **Iceland** alleging that the Icelandic authorities were in breach of Regulation 1408/71 when refusing to grant child allowances to pensioners residing outside Iceland. In April, the complainant informed the Authority that the problem had been solved, since the Icelandic Social Security institution accepted to pay the child allowance with retroactive effect.

In April and June 2000, respectively, the Authority received two complaints against **Norway**, concerning the refusal by Norway to pay Norwegian Child Care Benefit due to the fact that the complainants and their children do not reside in Norway. The complainants allege that the residence requirement relating to the Child Care Benefit is not in compliance with Regulation 1408/71, as the benefit in question is a family benefit which should be exported in accordance with that Regulation. The complaints will be examined further in 2001.

In April 2000, the Authority received a complaint against **Norway**, concerning Norway's refusal to pay sickness benefit for the period the complainant had stayed in Spain after having fallen ill on a holiday there. The reason for the refusal was that the complainant had not stayed in a hospital, which is required under the relevant Norwegian rules. In October, Norway informed the Authority that the Norwegian National Insurance Administration will alter its practice and administrative statements and settle, as soon as possible, the cases that have occurred.

4.10 FREEDOM TO PROVIDE SERVICES

The freedom to provide services across borders within the EEA is established in Article 36 of the EEA Agreement. The relevant secondary legislation is referred to in Annex IX (financial services), Annex X (audio-visual services), and Annex XI (post- and telecommunication services) to the Agreement. Transport is regulated in Articles 47 to 52 of, and in Annex XIII to the Agreement.

4.10.1 Financial Services

4.10.1.1 Banking

In 1999, the Authority received notification from **Liechtenstein** of partial implementation of the *Banking Accounts Directive* (86/635/EEC). The Authority, subsequently, sent a reasoned opinion to Liechtenstein in 1999 due to the delay in fully implementing the Directive. At the end of the reporting period, the Authority received notification of amendments to the existing company legislation ensuring full implementation of the Directive. Consequently, the Authority will consider whether to close the case in 2001.

In 1999, the Authority assessed the conformity of the national measures notified by **Iceland**, **Liechtenstein** and **Norway** as implementing the *Deposit-Guarantee Schemes Directive* (94/19/EC). Based on this assessment, the Authority concluded that measures implementing several provisions of the Directive were lacking as regards all three States. Consequently, the Authority sent letters of formal notice to Iceland, Liechtenstein and Norway in 1999. In March 2000, Iceland notified further implementing measures and the case was subsequently closed. The Authority sent a reasoned opinion concerning the Directive to Norway in March 2000. Norway has indicated that further implementing measures will be adopted in 2001. The Authority sent a reasoned opinion concerning the Directive to Liechtenstein in October 2000. At the end of the reporting period, the Authority received a notification from Liechtenstein of amendments to the existing legislation ensuring full implementation of the Directive. Consequently, the Authority will consider whether to close the case in 2001.

In September 2000, the Authority closed three cases regarding the implementation by **Iceland**, **Liechtenstein** and **Norway** of the *Contractual Netting Directive* (96/10/EC).


The time limit for the EFTA States to take the necessary measures to comply with the *Cross-border Credit Transfers Directive* (97/5/EC) expired on 1 February

2000. The Authority has received notifications from all three States of the full implementation of the Directive; from **Norway** in October 1999, from **Liechtenstein** in March 2000 and from **Iceland** in October 2000. The Authority intends to initiate a conformity assessment project on the implementation of the Directive in all three States in 2001.

The time limit for the EFTA States to take the necessary measures to comply with the *Settlement Finality Directive* (98/26/EC) expired on 1 February 2000. **Iceland** notified full implementation of the Directive in December 1999. The Authority intends to assess the conformity of the notified measures with the Directive in 2001. **Norway** notified a partial implementation of the Directive in May 2000. The Authority will consider whether to send a letter of formal notice to Norway for the lack of full implementation. **Liechtenstein** maintains that, as no systems as defined in the Directive exist in Liechtenstein, there are no implementing measures required for the time being.

In October 2000, the Authority sent a letter of formal notice to **Liechtenstein** concerning restrictions on the establishment of and the investment in financial institutions. The Liechtenstein Banking Act provides that banks, over which a dominant foreign influence is exercised, are not allowed to refer in their name to a Liechtenstein character or to pretend to have such a character. It is the Authority's assessment that this rule can hinder the establishment in Liechtenstein of credit institutions and financial institutions subject to foreign ownership or other dominant foreign influence. It is, further, the Authority's assessment that this rule may hinder foreign EEA nationals and economic operators from investing in Liechtenstein credit institutions and financial institutions. The Authority maintains that Liechtenstein has, therefore, failed to fulfil its obligations under Articles 31, 34 of the EEA Agreement on the freedom of establishment and Article 40 of the EEA Agreement on the free movement of capital, as well as its obligations under the *Capital Movements Directive* (88/361/EEC).

In December 2000, the Authority sent a letter of formal notice to **Norway**, concerning the implementation of Article 11 of the *Second Banking Directive* (89/646/EEC) and restrictions in national law on ownership of financial institutions. Article 11 of the Directive provides, *inter alia*, that EEA States shall require any natural or legal person who proposes to acquire a qualifying holding in a credit institution first to inform the competent authorities of the size of the intended holding. Where the influence exercised by such persons is likely to operate to the detriment of the prudent and sound management of the institution, the



competent authorities shall take appropriate measures to put an end to that situation. The Norwegian Law on Financial Activity and Financial Institutions provides, as a main rule, that no one can own more than 10% of the share capital of a Norwegian financial institution. Norway maintains that, because of this rule, there is no need for explicit implementation of Article 11 of the Second Banking Directive into the Norwegian legal order. It is the Authority's view that a general prohibition against more than 10% ownership of a financial institution is contrary to the free movement of capital and that Norway cannot justify the lack of explicit implementation of Article 11 of the *Second Banking Directive* by referring to such a rule. Consequently, it is the Authority's assessment that the Norwegian rule is incompatible with Article 40 of the EEA Agreement on the free movement of capital and the *Capital Movements Directive* (88/361/EEC) and that Norway has failed to implement Article 11 of the *Second Banking Directive*.

Liechtenstein notified full implementation of the *Money Laundering Directive* (91/308/EEC) in 1999. In April and July 2000, the Authority sent Pre-Article 31 letters to Liechtenstein requesting information on the implementation and application of several provisions of the Directive. In October 2000, Liechtenstein informed the Authority that several legal measures had been adopted by Parliament which would ensure stricter due diligence requirements with respect to money laundering. The Authority will examine the adopted measures in 2001.

4.10.1.2 Insurance

In 1998, **Liechtenstein** notified partial implementation of the *First* and the *Second Non-life Insurance Directives* (73/239/EEC and 88/357/EEC). The Authority sent two reasoned opinions to Liechtenstein in 1999 for failure to take the necessary measures to ensure full compliance with these directives. Having received a notification of full transposition of the directives, the Authority closed these cases in March and October 2000, respectively.

In 1998, the Authority received a notification from **Liechtenstein** of partial implementation of the *Second Life Assurance Directive* (90/619/EEC). The Authority sent a reasoned opinion to Liechtenstein in July 1999 due to a delay of full transposition of the Directive. In its observations to the reasoned opinion, the Liechtenstein Government indicated that the necessary implementing measures would be adopted in 2000. At the end of the reporting period, the Authority had not received a notification of full implementation of the Directive. Consequently, the Authority is considering whether to refer the case to the EFTA Court.

In May 2000, the Authority sent two letters of formal notice to **Norway** for failure to comply with the amended Article 18(1) of the *First Non-life Insurance Directive* (73/239/EEC) and the amended Article 21(1) of the *First Life Assurance Directive* (79/267/EEC). These provisions stipulate that EEA States shall not prescribe any rules as to the choice of the assets that need not be used as cover for the technical provisions. The Norwegian Law on Insurance Activity provides that an insurance company may not own or by voting represent more than 15% of the shares or parts of a company which conducts activities that may not be conducted by an insurance company. It is the Authority's assessment that such a national rule is incompatible with the provisions of the insurance directives referred to above. Having examined the Norwegian observations to the letters of formal notice, the Authority sent two reasoned opinions in these cases to Norway in December 2000.

In 1997, the Authority received notifications from **Liechtenstein** of partial implementation of the *Insurance Accounts Directive* (91/674/EEC). Subsequently, the Authority sent a reasoned opinion to Liechtenstein in 1999 due to the delay of full transposition of the Directive. At the end of the reporting period, the Authority received a notification of amendments to the existing company legislation ensuring full implementation of the Directive. Consequently, the Authority will consider whether to close the case in 2001.

In 1998, the Authority sent a reasoned opinion to **Liechtenstein** concerning its failure to ensure full compliance with the *Co-insurance Directive* (78/473/EEC). Having received a notification of full transposition of the Directive, the Authority closed the case in October 2000.

In 1998, the Authority sent a reasoned opinion to **Liechtenstein** concerning its failure to ensure full compliance with the *Legal Expenses Insurance Directive* (87/344/EEC). In May 2000, the Liechtenstein Government indicated that the necessary implementing measures would be adopted in 2000. At the end of the reporting period, the Authority had not received a notification of full implementation of the Directive. Consequently, the Authority is considering whether to refer the case to the EFTA Court.

The time limit for **Iceland**, **Liechtenstein** and **Norway** to take the necessary measures to comply with the *Directive on the Supplementary Supervision of Insurance Undertakings in an Insurance Group* (98/78/EC) expired on 1 July 2000. By that time, the Authority had not received any notifications of implementing measures from the three States. Consequently, the Authority sent a letter of formal notice to all three States in

October 2000. By the end of the reporting period, Iceland notified partial implementation of the Directive. The Authority will consider whether to deliver a reasoned opinion in these cases in 2001.

In 1998, the Authority received a complaint against **Iceland** alleging an infringement of the EEA Agreement through the provisions of the Icelandic pension fund legislation. The complainant maintains that the national provisions are discriminatory and restrict the free movement of services by requiring that insurance companies shall have their place of business in Iceland in order to be permitted to offer agreements on supplementary insurance benefits and individual pension savings. The complainant further maintains that limitations as to the investment policy of pension funds are discriminatory and restrict the free movement of capital. In the course of the examination of the complaint, the Authority sent two letters to Iceland, requesting information on the pension fund legislation. In 2000 the Icelandic Pension Fund Act was amended in such a way that pension funds are now allowed to invest up to 10% of their net assets in unlisted securities which are issued by parties within the OECD. The matter was discussed at a meeting with the Icelandic authorities in May 2000. In December 2000, the Icelandic Government informed the Authority that further amendments to the Pension Fund Act have been proposed in order to ensure full compliance with EEA rules on capital movements. The Authority will examine the case further in 2001.

In October 2000, the Authority received a complaint against **Norway** alleging an infringement of EEA rules concerning insurance and consumer protection. The complainant maintains that Norwegian rules restricting the conversion of a paid-up-policy into a unit trust are incompatible with the EEA Agreement. The Authority will examine the complaint in 2001.

In December 2000, the Authority sent a Pre-Article 31 letter to **Norway** requesting information on the interpretation of Norwegian rules providing that costs, which are accrued when a life assurance contract is entered into, are not to be included in the cost element for the establishment of the premium tariff but to be charged and paid by the policyholder separately and at no point later than the first premium payment. This rule is, *inter alia*, applicable to branches of insurance undertakings authorised in other EEA States. In 2001, the Authority will examine the conformity of these rules with the framework provided for in the Life Assurance Directives, in particular the provisions of the *Third Life Assurance Directive* (92/96/EEC) concerning the scope of insurance supervision by the home State competent authorities and

the competence of host State supervisory authorities as regards branches of life assurance undertakings authorised in other EEA States.

4.10.1.3 Stock exchange and securities

In January 2000, the Authority received from **Iceland** the notification of national measures aiming at the full implementation of the *Investor Compensation Scheme Directive* (97/9/EC) in Iceland. For the year 2001, the Authority aims at assessing the conformity of the national measures notified by Iceland.


In 2000, the Authority continued with its conformity assessment of the implementation of the *Investor Compensation Scheme Directive* (97/9/EC) in **Liechtenstein**. In this context, in October 2000, the Authority sent a letter of formal notice to Liechtenstein for failure to fully implement the *Investor Compensation Scheme Directive* (97/9/EC). By the end of the reporting period, the Authority received from Liechtenstein the notification of newly adopted national measures intended to ensure full implementation of the *Investor Compensation Scheme Directive* (97/9/EC).

In July 1999, the Authority received a complaint against **Norway**, where it was alleged that the system of investor compensation created an entrance barrier to the Norwegian market in the field of investment services. After having requested information concerning the situation in Norway, the Authority decided to continue with the examination of this case in the light of further information provided by the complainant. Concurrently, in November 2000, the Authority requested from Norway detailed information concerning the implementation of the *Investor Compensation Scheme Directive* (97/9/EC).

4.10.2 Audio-visual Services

In August 2000, the *revised Television Without Frontiers Directive* (97/33/EC) was incorporated into the EEA Agreement. The Directive develops further the principles related to the freedom to provide television services. Special interest has been devoted to the rule that the broadcasting of certain events of national importance may be reserved for broadcasters with a minimum national coverage. In the case that EFTA States wish to make use of the right to reserve such events, the Authority will review proposals of lists with such events as they are submitted by each State. **Iceland** notified the Directive as fully implemented in August, whereas **Liechtenstein** and **Norway** notified it as partially implemented in September.

At the beginning of 2000, open cases were pending against all the EFTA States for non-implementation of the *Standards for Television Signals Directive*



(95/47/EC). **Liechtenstein** notified full implementation at the end of 1999. **Iceland** and **Norway** notified that they had implemented the remaining parts of the Directive in June and September respectively. Subsequently, the cases against all three States were closed during the year. Following a conformity assessment, the Authority found however that the implementation by Iceland was incomplete, and sent therefore in December a new letter of formal notice for partial implementation.

4.10.3 Postal services, telecommunication services, information society services and data protection

4.10.3.1 Postal services

Two cases concerning non-implementation of the *Postal Services Directive* (97/67/EC), in which letters of formal notice were sent to **Iceland** and **Norway** in 1999, were closed in February, following full notifications from those States. Furthermore, **Liechtenstein** also notified full implementation of the Directive in January.

A complaint received in 1999 concerning the implementation by **Norway** of the *Postal Services Directive* (97/67/EC) is still under examination by the Authority. The complaint states, *inter alia*, that a remonopolisation has taken place as regards Norwegian postal services, contrary to principles of the Directive.

4.10.3.2 Telecommunications services

In 2000, the completion of the 1998 telecommunications regulatory package was achieved in the EEA. The regulatory package consists of the directives and decisions which facilitated the harmonisation and as from 1 January 1998 the full liberalisation of Europe's telecommunications markets.

In February, the *Licensing Directive* (97/13/EC) was added to the EEA Agreement, following fulfilment of constitutional requirements by **Liechtenstein**. Through the Joint Committee Decision incorporating the Directive, Liechtenstein was granted certain adaptations due to its special situation with regard to telecommunications liberalisation. **Iceland** notified full implementation of the Directive the same month, and Liechtenstein notified partial implementation in March. Full notification is still awaited from that country. A letter of formal notice was sent to **Norway** in April as no notification was received. Norway notified full implementation in September, and the case was subsequently closed in November.

The *Cable Separation Directive* (1999/64/EC) was incorporated into the EEA Agreement in 1999 and entered into force in April 2000. Letters of formal notice were sent to all three EFTA States in August, as none of the States had notified implementation. Notifications followed from **Norway** the same month, and the case against that country was closed in November. Notifications from **Liechtenstein** and **Iceland** followed in October and December respectively, and are now being examined by the Authority.

In July 2000, the *Directive on Data Protection and Privacy in the Telecom Sector* (97/66/EC) was added to the EEA Agreement. The Directive was notified by **Norway** and **Iceland** in August and October respectively, whereas a notification from **Liechtenstein** is still outstanding.

During the reporting year, three complaints from previous years were examined further by the Authority. A case against **Norway**, which is based on a complaint submitted by the company Teletopia in 1996, concerning the lack of separation between regulatory and ownership functions in the Norwegian Ministry of Transport and Communications, was progressing in 2000 towards a possible solution. The Authority sent a letter of formal notice and afterwards a reasoned opinion in 1999, indicating that the arrangement in place at that time, whereby the Norwegian Ministry of Transport and Communications was the owner of Telenor as well as being vested with regulatory powers, was in breach of several directives in the telecommunications sector. In April 2000, the Authority was informed that the ownership of Telenor would be transferred from the Ministry of Transport and Communications to the Ministry of Trade and Industry. Towards the end of the year, the Authority received confirmation that such a transfer of ownership had taken place in September. The Authority is now examining the effects of this transfer of ownership.

Another complaint lodged by the cable operator UPC Norge (Janco Multicom at the time of the complaint) resulted in a letter of formal notice against **Norway** in April 2000. UPC Norge stated that the Norwegian Post- and Telecommunications Authority did not have sufficient powers to take decisions in interconnection disputes before the end of a three-months mediation period. The *Interconnection Directive* (97/33/EC) requires national regulatory authorities to be vested with such powers in order to prevent that parties to interconnection disputes abuse rules on mediation. In its reply to the Authority, Norway agreed to change its present legislation in order to comply with the Interconnection Directive.

The Authority received in 1999 a complaint against **Norway** concerning the provision of directory data. According to the complainant, Norway has not fulfilled its obligation under the *ONP Voice Telephony Directive* (98/10/EC) to ensure that directory data may be acquired from the telecommunications operators on non-discriminatory terms. Without access to such data on fair and non-discriminatory terms, independent companies are prevented from efficiently competing with the telecommunications operators in the provision of telephone directories and directory services. The Authority is now examining the Norwegian Government's observations in the case.

Throughout the year, the Authority has been in contact with operators as well as with regulatory authorities in all the EFTA States in order to discuss matters of general interest as well as specific cases. The Authority was also co-operating with the European Commission on general and specific matters and participated as an observer in the ONP-Committee and the High Level Committee of Regulators.

4.10.3.3 Data protection

In July 2000, following the fulfilment of constitutional requirements in all three EFTA States, the *Directive on the Protection of Personal Data* (95/46/EC) was incorporated into the EEA Agreement. The Directive was notified as fully implemented by **Iceland** and **Norway** in August, followed by a notification of partial implementation from **Liechtenstein** in September.

At the end of the year, the Authority received a complaint from the Euro Citizen Action Service, relating to a Healthcare Database in **Iceland**. According to the complaint, certain aspects of the database illustrate that Iceland has not complied with its obligations under the *Directive on the Protection of Personal Data* (95/46/EC). The Authority is currently examining the observations of the Icelandic Government.

4.10.4 Transport

After a rather active year in 1999 when altogether 29 new acts had been added to the Transport chapter in the EEA Agreement, "only" nine new transport acts were added to the Agreement in 2000.

4.10.4.1 Road, inland and railway transport

In the field of road transport three new acts were inserted in the EEA Agreement. Only one of these was to be implemented during 2000, namely an *Amendment to the Ecopoint Regulation* (609/2000/EC). As concern the two other Acts, the *Directive on transportable pressure equipment* (1999/36/EC) and *Directive*

2000/30/EC on the *Technical Roadside Inspection of the Roadworthiness of Commercial Vehicles*, these are to be transposed by July 2001 and June 2002 respectively.

A number of non-notification cases were pursued throughout the reporting period. Letters of formal notice were sent to **Iceland** and **Norway** for non-notification of the 1999 *Amendment to the Transport of Dangerous Goods by Road Directive* (1999/47/EC). While the Authority received a notification from Norway, final notification from Iceland was still due at the end of the reporting period. A letter of formal notice was also sent to **Liechtenstein** for non-implementation of the 1996 *Amendment to the Driving Licences Directive* (96/47/EC). Liechtenstein has informed the Authority that it expects that full implementation of this Directive will take place during the first quarter of 2001.

Based on an examination of the transposition of *Regulation 3820/85 on the harmonization of certain social legislation relating to road transport* in **Iceland**, the Authority sent a letter of formal notice on that matter in October 2000. The Authority raised the possibility that Iceland, instead of applying the permitted higher minima or lower maxima rules for driving and rest periods laid down in the Regulation, in certain cases applied lower minima or higher maxima rules. Having received a reply to the letter in December 2000, the Authority will examine the matter further.

In autumn 2000, the Authority received a complaint concerning a proposed amendment to the Motor Vehicle Regulation in **Norway**. On the basis of the complaint the Authority is presently examining whether the proposed amendment would impede free circulation of services within the EEA.

In December 2000, the Authority received a complaint concerning the **Norwegian** duties on vehicles with larger total weight than 12000 kg. The Authority will examine the matter in 2001.

At the end of 1997, the Authority received a complaint against **Norway** concerning a refusal by that State to exchange driving licenses. This refusal was alleged to be contrary to the provisions of the *Driving License Directive* (91/439/EEC). The complaint has been under examination since 1998. Co-operation with the European Commission, as well as with other external bodies, has been sought. A decision on the matter is expected during 2001.

With regard to Regulation 2121/98 on carriage of passenger by bus, Regulation 2135/98 on recording equipment in road transport, Regulation 11/98 on international carriage of passengers by bus, Regulation 12/98 on passenger transport by non-resident carriers (cab-



otage) and Regulation 3298/94 and Regulation 1524/96 on Ecopoints, no information on transposition measures had been received by the end of the reporting period from either **Norway** or **Iceland**. Norway had not provided such information concerning Regulation 2479/95 on recording equipment in road transport nor had Iceland regarding Regulation 609/2000 on Ecopoints.

One new act was added to the Agreement in the field of inland transport, namely Directive 2000/18/EC on Minimum Requirements for Safety Advisers for the Transport of Dangerous Goods. A letter of formal notice was sent to **Iceland** for non-notification of Directive 96/35/EC on Safety Advisers for Dangerous Goods, and a formal notification in this respect from Iceland was still missing by the end of the reporting period.

No new acts on rail transport were added to the Agreement during 2000. A letter of formal notice was sent to **Norway** for non-implementation of the 1999 Amendment to the Transport of Dangerous Goods by Rail Directive (1999/48/EC). However, Norway provided the requested notification and the case was closed.

4.10.4.2 Inland waterway transport

One new act was added to the EEA Agreement in the field of inland waterway transport in 2000 (Commission Regulation 1532/2000 amending Regulation 805/1999 laying down certain measures for implementing Regulation 718/1999 on a Community fleet capacity policy to promote inland waterway transport). However, since there are no inland waterways in any of the three EFTA States, they are not, for the time being, under obligation to implement measures in this sector.

4.10.4.3 Maritime transport

In the field of maritime transport two new acts were added to the EEA Agreement in 2000, that is the 1999 Amending Directive on Port State Control (1999/97/EC) and the Directive on the Working Time for Seafarers (1999/95/EC).

Certain cases of non-implementation were pursued during the reporting period in the maritime field. Letters of formal notice were sent to both **Iceland** and **Norway** for non-notification of the Safety on Board Passenger Ships Directive (98/18/EC). Upon receipt of notification from Norway this case was closed. However, no notification had been received from Iceland by the end of the reporting period.

Letters of formal notice were also sent to **Iceland** for non-notification of the following Directives: The 1998 Amendment of the Marine Equipment Directive

(98/85/EC), the 1998 amending Directive on the Minimum Level of Training of Seafarers (98/35/EC) and finally the Directive on the Registration of Persons Sailing on Board Passenger Ships (98/41/EC). After receiving notification on the last Directive, this case was closed.

By the end of the reporting period the Authority also sent a reasoned opinion to **Iceland** for the non-implementation of the Marine Equipment Directive (96/98/EC).

No information on transposition measures had been received from **Iceland** by the end of the reporting period concerning Regulation 179/98 on safety management of ro-ro ferries.

The Authority continued discussions with **Norway** on the Port State Control Directive (95/21/EC) and the Vessels Carrying Dangerous Goods Directive (93/75/EC), which, according to the Authority's assessment, had only been partially implemented. According to the latest information received from Norway the remaining provisions of these two directives will now be fully implemented during the first part of 2001.

According to the Directive on Safety on board Passenger Ships (98/18/EC) and the Directive on a Safety regime for fishing vessels (97/70/EC), Member States are permitted to apply additional safety requirements in certain situations due to specific local circumstances, provided a specified procedure is followed. This procedure provides that the Authority, assisted by a Committee of representatives of the EFTA States, decides upon such requests. At the beginning of autumn 2000 **Norway** requested such additional safety measures for Norwegian ships in accordance with these two directives. After having followed the established procedure, the EFTA Surveillance Authority authorised Norway in December 2000 to apply the requested safety measures for Norwegian vessels.

In accordance with the provisions of Directive 98/41/EC on registration of persons on board passenger ships, the Authority, by the same procedure, also authorised **Norway** to exempt 11 Norwegian passenger ships from the obligation to communicate the number of persons on board to the passenger registrar or to the shore-based system that performs the same function. These 11 ships are all operating, exclusively in protected sea areas, regular services of less than one hour between port calls.

4.10.4.4 Civil aviation

In the civil aviation sector two new acts were added to the EEA Agreement in 2000. These were Council Resolution 1999/C 222/01 on the situation of air traf-

fic delays in Europe and Directive 96/67/EC on access to the ground handling market at Community airports.

Liechtenstein has a transition period regarding civil aviation until 1 January 2002.

By the end of the reporting period neither **Iceland** nor **Norway** had reported on implementing measures concerning the *amending Regulation 323/1999 on CRS*. Also on *Regulation 2027/97 on Air Carrier Liability* such information was still missing from Iceland. With regard to *Regulation 2176/96 amending to scientific and technical progress Regulation 3922/91* information from Norway on transposition measures was still missing at the end of 2000.

In 1999, the Authority sent reasoned opinions to **Iceland** and **Norway** raising the possibility that Iceland and Norway, by charging air transport taxes which discriminate between domestic flights and flights to other States of the EEA, secure a special advantage for the domestic market and the internal air transport services in Iceland and Norway. This is in contravention of the principle of free provision of services enshrined in the EEA Agreement. The Authority received a reply from Iceland in 1999 in which Iceland maintained its position and informed that it would not accept the Authority's opinion at this juncture. In its Revised Budget for 2000, the Norwegian Government, on the other hand, informed the Authority that it would propose an equal tax rate for both domestic and international flights in the National Budget for 2001. Against this background both cases will be further examined in 2001.

In 1999, the Authority received a complaint against **Norway** concerning the Norwegian environmental tax on aviation fuel. The complainant considered that the tax was incompatible with the EEA Agreement alleging that it constituted an obstacle to the exercise of the right to supply air traffic services within the EEA area. As the tax was only levied on domestic flights and was not dependent upon the nationality or the State of registration of the air carrier, the Authority concluded, however, that no discriminatory effects on cross-border activities were involved. The case was consequently closed in March 2000.

4.10.5 Non-harmonised service sectors

In 1998, a complaint was lodged with the Authority against **Norway** concerning an EEA national who was refused to use his foreign-registered car when providing services in Norway. The refusal was based on the ground that his family resided in Norway. According to the Norwegian legislation an EEA national whose

spouse and children reside in Norway is considered to have permanent residence in that State if that person visits them regularly, at least once per month. Save for specific modalities of exemption, in such a case the person will not be permitted to use a foreign-registered car in Norway unless the person pays import duties and taxes to Norway. In July 2000, the Authority sent a letter of formal notice to Norway concluding that the rules were contrary to the EEA Agreement regarding the free movement of workers and the freedom to provide services.


Related hereto is a complaint against **Norway**, which the Authority received in November 2000. A Norwegian national who works and resides in the Netherlands while his family resides in Norway claims restrictions on the use of foreign-registered cars which he rented for travelling to Norway. According to the complainant he must return the car to the nearest branch of the rental company upon his entry to Norway. Neither is he allowed to take the car back to the Netherlands. The Authority has requested information from Norway concerning the issues raised in the complaint.

In December 2000, the Authority sent a letter of formal notice to **Norway** concerning discriminatory income tax exemption of lottery prizes won in Norwegian national lottery by persons residing in Norway as compared to similar prizes won in other EEA States by these persons, which are considered as taxable income. The situation in Norway was regarded as contrary to Article 36 of the EEA Agreement.

In December 2000, the Authority also requested **Iceland** to provide further information concerning its national legislation on taxation of lottery prizes.

In 1999, the Authority sent a letter of formal notice to **Norway** concerning access to justice. This matter arose from the fact that plaintiffs residing outside Norway can be requested to furnish security for costs of legal proceedings while no such requirement can be imposed on plaintiffs residing in Norway. The situation in Norway was regarded as contrary to Articles 3 and 4 of the EEA Agreement. In March 2000, Norway committed itself to clarifying the wording of the legislation concerned in order to bring it in conformity with the EEA Agreement. A bill was expected before the end of 2000.

In March 2000, the Authority also sent a letter of formal notice to **Liechtenstein** concerning national provisions requiring non-resident plaintiffs to provide security for costs in court proceedings. Following the reply of Liechtenstein, the Authority is currently considering whether to proceed further with this case.



In March 2000, the Authority received a complaint against **Norway** in the fields of public procurement and the free movement of services. As regards services, the complainant alleged that a difference in treatment between municipalities' and private entities with respect to the Norwegian VAT compensation scheme in relation to certain building cleaning services restricts the free movement of services according to Article 36 of the EEA Agreement. In July 2000, the Authority sent a letter to Norway requesting information on the relevant legal framework. The Authority received a reply to its letter in September 2000. In 2001, the Authority will consider whether to pursue the case further.

In 1998, the Authority received a complaint alleging discriminatory restrictions regarding access to angling in **Norway**. In March 1999, the European Commission forwarded a second complaint to the Authority against Norway concerning the same matter. In this complaint it was alleged that local fishing clubs discriminated against foreign anglers with regard to licence fees and to quotas of fishing licences for non-Norwegian EEA nationals residing outside Norway. Following previous exchange of correspondence with the Norwegian authorities, the Authority, in November 2000, requested Norway to submit further detailed information on the situation in order to proceed with these cases in 2001.

In 1999, a complaint against **Norway** was lodged with the Authority in which the complainant alleged that the Norwegian practice on tax exemptions for welfare trips were discriminatory. If a Norwegian company arranged a weekend trip for the employees within the Nordic countries, the stay would be considered as a non-taxable benefit. However, if arranged in another EEA State, the covering of the costs by the employer would be considered as taxable remuneration for the employees. The company would then have to include the costs in the calculation of contributions to the National Insurance Scheme. The Norwegian Government informed the Authority that it considered the present tax guidelines unsatisfactory and they would consequently be subject to a revision. The statutory rules would also be reconsidered. In the absence of any further information on the situation, the Authority requested updated detailed information from Norway in December 2000.

In 1998, the Authority received a complaint against **Norway** alleging discriminatory restrictions on freedom to provide services as regards aerial photography services. Following a letter of formal notice in 1999, the Norwegian Government informed the Authority that it intended to amend its legislation and practice in order to make similar rules apply to both Norwegians and other EEA nationals. In November

1999, the Government stated that it expected the necessary amendments to be adopted by September 2000. However, according to another letter from the Government of December 2000, the said amendments were delayed and are now expected to enter into force during the first quarter of 2001.

A complaint was lodged against **Iceland** in 1999, alleging that the Act No. 139/1998 on a Health Sector Database was not in compliance with the EEA rules on the free provision of services. The Authority has been examining the case throughout the year, including the observations presented by the Icelandic Government, and expects to decide on any further action in the year 2001.

In 1995, several complaints were filed with the Authority concerning restrictions which the **Norwegian** Lottery Act introduced on operating gaming machines with pay-outs, insofar as the pursuit of these activities was being reserved for charitable organizations only. In 1999, the European Court of Justice gave judgements in two cases concerning gaming legislation in Finland and Italy. The case, in the light of the judgements, was still under examination by the end of the reporting period.

4.11 FREE MOVEMENT OF CAPITAL

Article 40 of the EEA Agreement lays down the principle of free movement of capital. More specific provisions for the implementation of that principle are included in the *Capital Movements Directive* (88/361/EEC), referred to in point 1 of Annex XII to the Agreement.

In 2000, the Authority sent one letter of formal notice and received one complaint. The Authority also started to assess three cases following, in particular, the examination of the replies received to the questionnaire on intra-EEA investment sent to the EFTA States in 1999. During the reporting period the Authority also decided to close one case.

In 1999, a reasoned opinion was sent to **Iceland** concerning a provision in the Law on Income and Net Worth Tax, which authorises taxable persons to deduct investment in domestic shares from their income and thereby lower their base for income tax. Following its reply in March 2000, Iceland amended the contested provision to take account of the Authority's concerns. Consequently, the Authority decided to close the case in September 2000.

In 1999, a reasoned opinion was sent to **Iceland** concerning a provision in the Law on Income and Net Worth Tax which authorises taxable persons to deduct their properties in certain domestic financial instruments from total assets and by doing so lower the base for net worth tax. In its reply to the reasoned opinion in March 2000, Iceland indicated that a working group was to be established with the aim of initiating a revision of the provisions concerned. According to Iceland, the report of the working group was to be issued before the end of 2000. In light of the outcome of the report, the Authority will consider whether to proceed further with this case.

In March 2000, the Authority sent a letter of formal notice to **Norway** concerning the authorisation procedure provided in the Act on acquisition of business undertakings. According to the Norwegian Act, the acquisition of business undertakings in Norway is contingent upon approval by the Norwegian authorities, which must be sought by means of a notification, unless the acquisition is exempted. Until the approval, the acquirer can only exercise limited ownership rights of the company or of its assets. The Authority considered this rule to infringe the freedom of establishment and the free movement of capital. Following the reply to the letter of formal notice and subsequent discussion with Norway in the second half of 2000, the Authority is expecting proposals from Norway on amendments to the current legislation.

In January 2000, the Authority received a complaint against **Iceland** alleging that provisions in the Icelandic Act on Land concerning pre-emptive rights were contrary to EEA rules on capital movements. The case was still under examination at the end of the reporting period.

During the reporting period, the Authority decided to commence examination of three cases concerning **Norway**. These cases concern national legislation on investment in Norway and will be further examined in 2001.

Finally, it should be noted that during 2000 the Authority issued two letters of formal notice involving capital movements in the banking sector and closed one case related to company law. Another case was further examined in the insurance sector. These cases are discussed in the chapters on banking, insurance and company law respectively.

4.12

HORIZONTAL AREAS RELEVANT TO THE FOUR FREEDOMS

Part V of the EEA Agreement contains horizontal provisions relevant to the four freedoms in the areas of health and safety at work, labour law, equal treatment for men and women, consumer protection, and environment.


4.12.1 Health and Safety at Work

In Articles 66 and 67 (1) of the EEA Agreement, the parties to the Agreement have agreed on the need to promote improved working conditions and an improved standard of living for workers. They have committed themselves to paying particular attention to encouraging improvements in health and safety aspects of the working environment. Minimum requirements shall be applied to gradual implementation, but this shall not prevent any State from maintaining or introducing more stringent measures for the protection of working conditions compatible with the EEA Agreement.

Annex XVIII to the EEA Agreement refers to several directives laying down such minimum requirements. The areas covered by these directives include the work place environment, protection against physical, biological and chemical agents and dangerous substances, protective and work equipment, protection of and facilities for pregnant and breastfeeding or nursing workers, mineral extracting industries, temporary construction sites, medical treatment on board ships and work on board fishing vessels. In 2000, two new acts were added to the Annex. Directive 1999/38/EEC *extends the scope of protection of the Carcinogens Directive (90/394/EEC) to mutagens*. Directive 1999/92/EEC is the 16th individual directive under the Directive on Improvement of Safety and Health at Work (89/391/EEC) and *concerns the protection of workers potentially at risk from explosive atmosphere*.

In 2000, further progress was achieved by the EFTA States in reducing the number of non-implemented directives in the sector of health and safety at work. Six infringement cases could be closed in the reporting period.

The Authority continued its systematic conformity assessment project, which started in 1997, regarding the implementation by all three EFTA States of the *framework Directive on Improvement of Safety and Health at Work (89/391/EEC)* in 2000. In 1998, a letter of formal notice was sent to **Iceland** regarding



partial non-implementation concerning land based activities. In September 2000, the Authority received an implementation plan from Iceland, which indicated that transposition will be further delayed until spring 2001. In 1996, the Authority sent a letter of formal notice to **Liechtenstein** regarding partial non-implementation of the Directive. Following examination of an updated table of correspondence the case was closed in December 2000. After a corresponding notification of full implementation by **Norway** in September 2000 the Authority's examination of partial non-implementation of the Directive was also closed.

In 1998, a reasoned opinion was sent to **Norway** concerning partial implementation of the *Medical Treatment on Board Vessels Directive* (92/29/EEC). In October 2000 the Authority received an implementation plan indicating that the legislative procedures have been started and might be finalised by the end of 2000. However, at the end of the reporting period the national measures had not been notified.

The Authority's examination of the notification of implementation of the *Exposure to Noise at Work Directive* (86/188/EEC) by **Liechtenstein** following a letter of formal notice in 1998 was completed in 2000 and the case closed.

With regard to the *Indicative Limit Values Directive* (91/322/EEC) and the *Second Indicative Limit Values Directive* (96/94/EC) **Norway** had notified partial implementation in 1998 indicating further measures in 1999. In October 2000 Norway informed the Authority that measures had been taken to rectify the situation. By the end of the reporting period the Authority had not finalised its examination of those measures.

After notification at the end of 1999, the Authority received the complete notification of the implementation of the 1995 Amendment to the *Work Equipment Directive* (95/63/EC) from **Norway** in January 2000 and closed the case.

As regards the partial non-implementation of the *Temporary or Mobile Construction Sites Directive* (92/57/EEC) in **Liechtenstein**, the Authority started its examination in 1999 and sent a letter of formal notice at the end of the reporting period.

Following examination of notified measures, the Authority concluded that it had not received notifications of full implementation from **Norway** in the maritime sector of the *Work Equipment Directive* (89/655/EEC) as amended by Directive (95/63/EC), the *Carcinogens at Work Directive* (90/394/EEC) and the *Biological Agents Directive* (90/679/EEC) as amended by Directive (93/88/EC), Directive (95/30/EC), Directive (97/59) and Directive (97/65/EC). With regard

to the *Work Equipment Directive* (89/655/EEC) as amended by Directive (95/63/EC) the Authority received notification of full implementation in August 2000 and subsequently closed the cases. The adoption of a new regulation transposing the other directives has been delayed but is expected in early January 2001.

A complaint against **Iceland** was received in January 1999, alleging insufficient implementation of a number of articles of the *Pregnant and Breastfeeding Workers Directive* (92/85/EEC). The case was still under examination at the end of the year.

4.12.2 Labour law

Article 68 of the EEA Agreement obliges the EEA States to introduce, in the field of Labour law, measures necessary to ensure the good functioning of the EEA Agreement. In that respect, Annex XVIII refers to 13 directives. These directives 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, protection of employees in the event of insolvency of their employer, the employer's obligation to inform employees of the conditions applicable to the contract or employment relationship, the establishment of a European Works Council, the organization of working time, the protection of young people at work, parental leave and the posting of workers in the framework of the provision of services.

In 1999, the Authority initiated a conformity assessment project regarding the implementation by all three EFTA States of the *Working Time Directive* (93/104/EC) and the *Protection of Young People Directive* (94/33/EC). The project continued in 2000. The conformity assessment showed that **Liechtenstein** had not adequately implemented the *Working Time Directive*. A letter of formal notice was therefore sent to Liechtenstein in November 2000. The assessment also showed that there were some shortcomings in the way **Norway** and **Iceland** had implemented the Directive. The Authority has requested additional information regarding the measures Norway and Iceland will take to remedy these shortcomings.

The conformity assessment regarding the *Protection of Young People Directive* showed that **Liechtenstein** had not implemented the Directive adequately. Thus, a letter of formal notice was sent to Liechtenstein in November 2000. While **Iceland** had fully implemented the Directive, the Authority has asked Norway for clarifications with respect to the scope of the Act notified by **Norway** to implement the Directive. It seems that some exceptions from the Act are not in conformity with the Directive.

After **Iceland** finally notified fulfilment of constitutional requirements regarding the EEA Joint Committee Decision No. 55/95 of 22 June 1995 by which the *European Works Councils Directive* (94/45/EC) was added to the EEA Agreement, the Decision formally entered into force on 1 July 1999. 1 July 1999 was also the final date by which the EFTA States had to comply with the Directive. **Norway** implemented the Directive in 1996, while Iceland notified full implementation of the Directive in May 1999. In March 2000, Iceland provided detailed information regarding the transposition of the Directive.

In October 1999, a letter of formal notice was sent to Liechtenstein for failure to implement the *European Works Council Directive* (94/45/EC). In August 2000 the Authority received notification of the full implementation from Liechtenstein and the case was subsequently closed.

In December 2000, the Authority started a conformity assessment regarding the implementation of the *European Works Council Directive* (94/45/EC) by the three EFTA States. This work will be concluded in January 2001.

The EFTA States were to transpose the Directive 97/74/EC extending the *European Works Councils Directive* to the United Kingdom of Great Britain and Northern Ireland by 15 December 1999. All three EFTA States have notified national measures implementing the Directive during 2000.

In December 2000, the Authority carried out a conformity assessment regarding the implementation of the *Employer's Information Obligation Directive* (91/533/EC). The Authority found that the provisions of the Directive have been adequately transposed to the national legislation of all three EFTA States.

The deadline for the EFTA States to implement the *Posting of Workers Directive* (96/71/EC) expired on 16 December 1999. In May 2000, the Authority received information from **Liechtenstein** that a new Act ensuring full implementation of the Directive had been adopted and entered into force. A new **Norwegian** Act implementing the Directive was adopted and entered into force in January 2000. In April 2000, **Iceland** notified national legal measures for the partial implementation of the Directive. A new Act on the posting of workers will probably be adopted in Iceland early in 2001.

The EFTA States were to implement the *Parental Leave Directive* (96/34/EC) within 1 July 2000. **Iceland** notified the Directive as fully implemented in July 2000. **Norway's** notification for full implementation was received in September 2000. **Liechtenstein** has

informed the Authority that it will need one more year for the transposition of the Directive into national legislation. In accordance with Article 2 of the Directive, Liechtenstein will have a transition period for the whole Directive until 1 July 2001.

4.12.3 Equal treatment for men and women

In Article 69(1) of the EEA Agreement, the EEA States undertake to ensure and maintain the application of the principle that men and women should receive equal pay for equal work. Annex XVIII to the Agreement refers *inter alia* to three directives dealing with equal treatment at work, and three directives that are concerned with equal treatment in matters of social security and in occupational social security schemes.


In August 2000, the Authority received a complaint against **Norway** on sex discrimination as regards access to employment at the University of Oslo. The complainant alleged that the University of Oslo is in breach of Council Directive 76/207/EEC *on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion and working conditions*. The basis for the complaint is that the University of Oslo, in order to recruit more women to certain positions, excludes men from having access to a specific number of positions at the university. The Authority requested further information on the case from Norway and got a reply in October 2000. The Authority will examine the case further in 2001.

4.12.4 Consumer protection

Annex XIX to the EEA Agreement refers to 11 directives concerning consumer protection. During 2000 no new acts with implementation deadline in 2000 were added to the EEA Agreement. However, the EFTA States were required to implement two acts during that period. These were the *Directive concerning misleading advertising so as to include comparative advertising* (97/55/EC), which amends Directive 84/450/EEC, which was required to be implemented in April 2000 at the latest, and the *Directive on the protection of consumers in respect of distance contracts* (97/7/EC) which had to be implemented in July 2000 at the latest.

Furthermore, the *Directive on injunctions for the protection of consumers' interests* (98/27/EC), incorporated into the EEA Agreement in September 1999, should be brought into the legal orders of the EFTA States no later than 1 January 2001.

During the reporting period the Authority sent three letters of formal notice to the EFTA States in the field of consumer protection. In October 2000, the Authority



sent a letter of formal notice to **Norway** for failure to implement the *Directive concerning misleading advertising so as to include comparative advertising* (97/55/EC). During the same month the Authority sent a letter of formal notice to **Norway** for failure to fully implement the *Directive on the protection of consumers in respect of distance contracts* (97/7/EC). The Authority also sent a letter of formal notice to **Liechtenstein** for failure to adopt implementing measures for the same Directive.

Furthermore, during 2000 the Authority sent a questionnaire to the three EFTA States with a view to preparing a report on the application of the *Directive on unfair contractual terms* (93/13/EC) in the EFTA States. The report should be available in 2001.

4.12.5 Environment

Article 73 of the EEA Agreement provides that the objectives of the EEA States action relating to the environment shall be to preserve, protect and improve the quality of the environment, to help protect human health, and to ensure a prudent and rational utilisation of natural resources. The basic principles to be applied in this respect are that preventive action should be taken, that environmental damage should as a priority be rectified at source, and that the polluter should pay.

4.12.5.1. General provisions

Directive 97/11/EEC amending the *Environmental Impact Assessment Directive* (85/337/EEC) entered into force 1 July 2000 when **Iceland** had notified that constitutional requirements had been fulfilled. In December 2000, Iceland notified full implementation of the Directive. **Norway** and **Liechtenstein** had already in 1999 informed about implementation of the Directive.

Following a conformity assessment of the measures notified to comply with the *Environmental Impact Assessment Directive* (85/337/EEC) in **Liechtenstein** the Authority requested some information on the implementation of the Directive. Explanations given by Liechtenstein are being examined by the Authority.

Directive 96/61/EC on Integrated Pollution Prevention and Control (IPPC) entered into force in October 1999. By the end of the reporting period the Directive was still notified as partially implemented by **Norway**, which had informed the Authority that the existing legislation covered most of the issues mentioned in the Directive. A conformity assessment of these measures resulted in a letter requesting information from Norway.

In 2000, the EFTA States were reminded of obligations under *Directive 91/692/EEC standardizing and rationalizing reports on the implementation of certain directives relating to the environment*. According to the Directive, the EFTA States should submit sectoral reports to the Authority at regular intervals (normally 3 years). This duty is easily forgotten by the EFTA States since it is usually not transposed into their national legislation. The Authority addressed this issue on a general basis at a meeting in April with the EFTA Working Group for the Environment. In the Authority's opinion it is feasible that the EFTA States create routine administrative procedures on reporting since such requirements appear in the majority of environmental acquis. In 2000, the Authority addressed reporting in two sectors, the water and air sectors, further discussed in the section below.

4.12.5.2 Air and Water

In March 2000, the Authority closed an own initiative case against **Iceland** for failure to implement the *Directive on Ambient Air Quality and management* (96/62/EC).

In March and April 2000, the three EFTA States were sent Pre-Article 31 letters to remind them of duties to deliver reports on the implementation of directives in the water sector. The reports had been due on 30 September 1999. The reports concerned the following directives:

- Directive 75/440/EEC *concerning the quality of surface water intended for the abstraction of drinking water in the Member States*
- Directive 76/464/EEC *on pollution caused by certain dangerous substances discharged into the aquatic environment and its daughter directives*
- Directive 80/68/EEC *on the protection of groundwater against pollution caused by certain dangerous substances and*
- Directive 80/778/EEC *relating to the quality of water intended for human consumption as amended.*

Towards the end of the year all EFTA States had submitted their reports. The Authority has hired an external consultant to examine the information submitted and to write a report on the implementation status in the EFTA States.

Reports on implementation of directives in the air sector were due 30 September 2000. In December 2000, the Authority sent letters to the **EFTA States** requesting them to submit before 28 February 2001 reports concerning these directives:

- *Directive 80/779/EEC on air quality limit values and guide values for sulphur dioxide and suspended particulates*
- *Directive 82/884/EEC on a limit value of lead in the air*
- *Directive 84/360/EEC on the combating of air pollution from industrial plants and*
- *Directive 85/203/EEC on air quality standards for nitrogen oxide.*

In September 2000, the Authority sent **Norway** a report, prepared by external consultants for the Authority, on the designation of "vulnerable zones" under the *Nitrates Directive* (91/676/EEC) and "sensitive areas" under the *Urban Waste Water Directive* (91/271/EEC). Norway was invited to comment on the conclusion of the report as it indicated that there were some areas in Norway that should be identified as "sensitive areas" in addition to those already existing. The matter was discussed at a meeting in Norway in October 2000 where Norway indicated that some time would be needed to study the report in details. Comments are expected in early 2001.

The Authority launched an examination of the implementation of the *Urban Waste Water Directive* (91/271/EEC) in **Norway**. The examination focuses on the application of secondary treatment of waste water in certain agglomerations, in particular in the biggest cities in Norway. The results of this examination are expected in 2001.

4.12.5.3 Chemicals, industrial risk and biotechnology

The Authority initiated a conformity assessment of measures notified by **Liechtenstein** as fully implementing the GMO directives, (*Directive 90/219/EEC* as amended and *Directive 90/220/EEC* as amended). In February, the Authority sent letters to Liechtenstein requesting information on a number of issues in both directives. These were discussed at a meeting in Brussels in June and the Authority received further written comments in August. The replies are being examined by the Authority.

During the year 2000, the Authority continued its examination of the implementation of the GMO-directives in **Norway**. Number of issues have been cleared in the process, but the Authority is of the opinion that there are certain things that still need to be clarified in the Norwegian legislation. However, it should be noted that both GMO-directives in their most important aspects, have been correctly implemented.

4.12.5.4 Complaints


During the year 2000, the Authority handled five complaints regarding the *Directive on Environmental Impact Assessment* (85/337/EEC) as amended by *Directive 97/11/EC*.

In August 2000, the Authority sent a letter of formal notice to **Iceland** for failure to apply the Directive correctly. In 1998, the Authority had received a complaint regarding the intended enlargement of a ferro silicon plant in Grundartangi. Examination by the Authority revealed that the decision had been taken without applying a screening procedure as obliged for projects listed in Annex II of the Directive. Iceland replied to the letter in November 2000, indicating that it did not disagree with the Authority's opinion. Furthermore, Iceland informed that similar incidents would not reoccur since a new Act on environmental impact assessment, that entered into force in June 2000, established a clearly defined screening procedure for such projects. Towards the end of the year a notification on the new Act was submitted to the Authority.

During the year 2000, the Authority continued its examination of a complaint against **Norway** concerning the construction of the E18 motorway in northern Vestfold. The complainant alleged that the Norwegian legislation on environmental impact assessment was not in compliance with the Directive with respect to when, in the planning of a project, the environmental impact assessment shall be undertaken, and that the assessment of the E18 motorway was not in conformity with the requirements of the Directive. Request for further information was sent to Norway in November.

In 1999, the Authority received two complaints regarding the implementation of the Directive concerning the intended construction of hydro power plant in Fljótsdalur north of Vatnajökull in **Iceland**. During the examination of the case, the plans for the construction of the hydro power plant were altered. In December 2000, Iceland informed the Authority that it was considered unlikely that the project would be launched. In light of this information the Authority is considering to close the case.

In December 2000, the Authority received a complaint regarding the decision of **Iceland** not to subject intended salmon farming in Mjóifjörður to an environmental impact assessment. The complainant maintains that, based on scientific evidence, the possible genetic impact and spread of diseases from farmed salmon to wild salmon fish stocks is likely to adversely affect the latter and this project should have undergone envi-



ronmental impact assessment to address this issue of concern. In December 2000, the Authority sent a letter to Iceland requesting information about this decision.

4.12.6 Company law

Annex XXII to the EEA Agreement refers to 10 acts in the company law sector. This sector can be divided into two groups. One group deals with “basic” company law issues, such as safeguards to protect the interests of certain parties, mergers and division of companies, disclosure requirements, and the so-called European Economic Interest Grouping (EEIG). The other group is concerned with *accounting* and *auditing* issues. The transition periods granted to **Iceland** and **Norway** for the implementation of these acts expired at the beginning of 1996. **Liechtenstein** had a transitional period until 1 May 1998.

4.12.6.1 Basic Company law

In 1996, the Authority initiated conformity assessment projects regarding the implementation by **Iceland** and **Norway** of the directives concerning “basic” company law issues. Following the notification by **Liechtenstein** of full implementation of the company law directives by the end of the reporting period, a similar project will soon be started with respect to Liechtenstein.

In late 1996 and 1997, Pre-Article 31 letters regarding five of the seven company law directives, namely the *First, Second, Third, Sixth and Eleventh Company Law Directives* (68/151/EEC, 77/91/EEC, 78/855/EEC, 82/891/EEC and 89/666/EEC), were sent to **Iceland**. In 1997 and 1998, Iceland notified amendments to its company legislation, which enabled the Authority to complete its conformity assessment regarding Iceland.

In 1996 and 1997, similar letters were sent to **Norway** with respect to the *First, Second, Third and Eleventh Company Law Directives*. New implementing legislation was adopted by the Norwegian Parliament in 1997, but did not enter into force until 1 January 1999. The Authority did a conformity assessment of the new legislation during 1999 and sent Pre-Article 31 letters to Norway regarding the above-mentioned directives and, in addition, regarding the *Sixth Company Law Directive*. In December 1999, a letter of formal notice was sent to Norway for failure to comply fully with certain provisions of the *First Company Law Directive*. Following Norway’s reply to the letter of formal notice, as well as further discussions, which took place in June and October 2000, Norway informed the Authority of its commitment to amending its legislation so as to comply with the concerns expressed by the Authority. The Authority is still examining the

practical consequences of this commitment. In respect of the conformity of the national legislation with the other above-mentioned directives, the Authority has, following its request in November 2000, received further information from Norway, which is currently under examination.

In 1998, **Liechtenstein** notified partial implementation of the basic company law directives to the Authority. In September 1999, the Authority sent six letters of formal notice to Liechtenstein for failure to comply fully with certain provisions of the *First, Second, Third, Eleventh and Twelfth Company Law Directive* (89/667/EEC) and *Amending Directive to the Second Company Law Directive* (92/101/EEC). Subsequently, in February 2000, the Authority issued six reasoned opinions in all these cases. Liechtenstein notified full implementation of these acts at the end of the reporting period. The Authority aims at assessing the conformity of these measures in 2001.

In July 2000, the Authority sent a letter of formal notice to **Liechtenstein** for non-compliance with the *Regulation on the European Economic Interest Grouping* (2137/85/EEC). Following the reply of Liechtenstein indicating that it had not yet adopted relevant legislation to comply with certain provisions of the Regulation, the Authority issued a reasoned opinion in December 2000. The Authority will consider whether to proceed further with this case.

4.12.6.2 Complaints

In 1996, the Authority received a complaint concerning the possibility for a subsidiary in **Norway** to provide a loan to its parent company registered in an EEA State other than a Nordic country. In 1998, the Authority, as a result, sent a reasoned opinion to Norway for failure to fulfil its obligations under EEA rules on free movement of capital and freedom of establishment. In 1999, the relevant provisions of the Norwegian Company Law legislation were changed. Following these amendments, the legislation restricts the rights of a Norwegian subsidiary to grant loans or provide guarantees to parent companies in another EEA State, unless that State has legislation that is similar to or stricter than certain provisions of the Norwegian legislation. In December 1999, the Authority sent a letter to Norway requesting information on the application of the amended law. Following the assessment of the information communicated by Norway, the Authority decided to close the case in May 2000 since the new legislation seemed to be justified as protecting against the draining of the company resources through loans to the holders of shares in companies not subject to Norwegian law.

4.12.6.3 Accounting and auditing

As regards the fields of *accounting* and *auditing*, the Authority carried out a conformity assessment concerning the implementation by **Iceland** and **Norway** of the *Fourth*, *Seventh* and *Eighth Company Law Directives* (78/660/EEC, 83/349/EEC and 84/253/EEC) in 2000. Both States have notified the complete implementation of these directives. Having assessed the notified measures, the Authority concluded that a further examination of the transposition by both States of several provisions of the directives was needed. In December 2000, the Authority sent two letters of formal notice to Iceland concerning the *Fourth* and the *Eighth Company Law Directives*. The Authority will continue its assessment of the implementation of the directives in 2001.

In 1998, **Liechtenstein** notified a partial implementation of the *Fourth*, *Seventh* and *Eighth Company Law Directives*. The Authority sent three reasoned opinions to Liechtenstein in 1999 due to the delay of full transposition of these directives. At the end of the reporting period, the Authority received a notification of amendments to the existing company legislation ensuring full implementation of the three directives. Consequently, the Authority will consider whether to close these cases in 2001. The Authority intends to initiate a conformity assessment project regarding the implementation of these directives in Liechtenstein.

5.1

Introduction

The EEA Agreement aims at the creation of a “level playing field”, where goods, services, persons and capital can move freely and economic operators can pursue their activities without competition being distorted. The enforcement of EEA antitrust rules is clearly important for undertakings in trade and industry, protecting them from anti-competitive behaviour by other market players. The application of antitrust rules will often also directly benefit consumers, whose free choice of goods and services might otherwise be limited through restrictive practices. Effective competition benefits consumers insofar as it promotes innovation and the efficient production and supply of goods and services and results in lower prices or better quality, choices or services.

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 to the four freedoms and to the homogeneity of the European 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. Only article 59 of the EEA Agreement extends to measures taken by EEA States for the purpose of applying (*inter alia*) EEA competition rules. These provisions, often referred to as antitrust rules, are in practice virtually the same in the EEA Agreement as in the Community Treaties. The following elements are the three corner stones of the EEA competition regime, reflected in Articles 53, 54 and 57 of the EEA Agreement respectively:

- 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, and
- the control of large mergers and other concentrations of undertakings, which may create or strengthen a dominant position and consequently impede effective competition.

The procedural rules to be followed by the Authority when handling competition cases are laid down in Protocol 4 to the Surveillance and Court Agreement.

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 of the EEA Agreement. 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. Similarly, the Commission may in certain circumstances have jurisdiction to address the actions of undertakings located in the EFTA States. This is particularly true in merger cases, where the “one stop shop” principle of the merger control regime, as transposed into the EEA Agreement, results in the Commission having jurisdiction over all mergers with a “Community dimension.”⁶ The Authority is only competent to deal with applications to approve mergers if an EFTA dimension⁷

⁶ Article 57 of the EEA Agreement provides that the European Commission has sole competence to decide on concentrations with a “Community dimension”, as defined in Article 1 of Regulation (EEC) No 4064/89 (the “EC Merger Regulation”, as revised by Regulation (EC) No. 1310/97): this depends on a number of thresholds being met within the EU as regards the turnovers of the parties to the concentration.

⁷ An “EFTA dimension” is established when the turnover thresholds set out in Article 1 of the EC Merger Regulation are met within the EFTA pillar. It should be noted that it is not correct to treat the thresholds as applying in respect of the EEA as a whole: Article 57 of the EEA Agreement only covers situations involving a Community dimension and/or an EFTA dimension.

is established and there is no Community dimension. In practice jurisdictional issues are often the subject of consultation between the two surveillance authorities on a case-by-case basis.

In competition cases, one of the roles of the Authority is to ensure that infringements are put to an end through formal decisions directed at individual undertakings, possibly including sanctions. This is done either upon the Authority's own initiative (*ex officio* cases) or upon application by interested parties (complaints).

Furthermore, the Authority is competent to grant exemptions from the prohibition against restrictive agreements contained in Article 53(1) of the EEA Agreement. In order for the Authority to be able to grant such exemptions, the undertakings concerned must notify the agreement in question. However, as a result of changes introduced into the EEA legal framework during the reporting period, vertical agreements are dispensed from the requirement of prior notification: an exemption for an individual agreement can be granted retroactively from the date on which the agreement was concluded. 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. Notified agreements benefit from immunity from fines in respect of practices taking place during the period from the date of notification until the decision by the Authority to grant or reject an individual exemption. In addition to its role in taking formal decisions in competition cases, the Authority can, in certain cases, deal with cases informally by taking administrative steps in respect of a given case. Most of the Authority's cases are currently concluded in this informal manner.

Cases involving anti-competitive behaviour by a public undertaking, an undertaking to which an EFTA State has granted special or exclusive rights within the meaning of Article 59 (1) of the EEA Agreement, or an undertaking entrusted with the operation of services of general economic interest or having the character of a revenue-producing monopoly within the meaning of Article 59 (2) of the EEA Agreement may also be addressed by the Authority under the EEA Agreement. Where a breach of Article 53 and/or Article 54 of the EEA Agreement follows from measures taken by an EFTA State, the Authority has sole competence to address the State in question under Article 59(3) of the EEA Agreement.

Although mergers with an EFTA dimension are unlikely to occur in practice, the Authority regularly deals with a considerable amount of inquiries from companies involved in possible concentrations regarding the

assessment of the rules on the division of competence between the Authority, the European Commission and the national competition authorities.

Decisions by the Authority in competition cases may be challenged before the EFTA Court.

In the field of competition, the focus of the Authority's attention is on the handling of individual cases. Another task is implementation control, *i.e.* ensuring that the relevant provisions are in place in the national legal orders of the EFTA States. Furthermore, the Authority issues notices and guidelines for the interpretation of the competition rules and co-operates with the European Commission in respect of certain individual cases and general policy issues. Most of the Authority's different activities also involve close co-operation with national authorities.

In 2000, the Authority's Competition and State Aid Directorate was able to work actively on current cases. Some backlog as regards low-priority older cases remains, but this should be eliminated in 2001. Furthermore, the level of cases handled by the European Commission which involved the Authority pursuant to Protocols 23 and 24 to the EEA Agreement, remained high. The Authority focused its resources, as a regard co-operation cases, on those cases that had a particular impact on the EFTA markets. In 2000, the Authority continued to devote a significant share of its resources to taking part in the discussions, at the level of the European Union, concerning the reform of competition rules (both substantive and procedural) and Commission practice. The Authority believes that the implications of implementing the proposed modernisation reforms into the EEA Agreement and the EFTA pillar must be carefully assessed.


5.2 New acts

5.2.1 Legislation

During 2000, the EEA Joint Committee adopted four decisions to incorporate new acts in the competition field into the EEA Agreement.

The first Decision⁸ incorporates the new regime for *vertical agreements* into the EEA Agreement. Vertical agreements relate to the sale or purchase of goods or services between companies operating at different levels of the production or distribution chain. The

⁸ Joint Committee Decision No 18/2000 of 28 January 2000, inserting new point 2 of Annex XIV to the EEA Agreement, which corresponds to Commission Regulation (EC) No 2790/1999 of 22 December 1999 on the application of Article 81(3) of the EC Treaty to categories of vertical agreements and concerted practices.



new legislation is based on a single block exemption which covers all vertical agreements. It exempts supply and distribution agreements concerning final and intermediary goods as well as services, with the exception of a limited number of "hard core" restrictions and certain obligations. The exemption applies to companies whose market share is below 30 %, thereby linking the granting of the exemption to the market power of the undertakings concerned. Above the 30 % threshold, agreements are not covered by the block exemption. They are not presumed to be illegal, but may require an individual examination under Article 53 of the EEA Agreement. The new legislation thus provides the basis for a more economic competition policy towards vertical agreements. The block exemption is complemented by guidelines on vertical restraints which together set out the overall competition policy in this field (see paragraph 5.2.2. below).

The second EEA Joint Committee Decision⁹ also concerns *vertical agreements*, dispensing vertical agreements from the requirement of notification prior to exemption. As a result of the above Decision it became necessary to amend the relevant procedural provisions of Protocol 4 to the Surveillance and Court Agreement: this was done in an Agreement between the EFTA States dated 11 May 2000.

The third EEA Joint Committee Decision¹⁰ incorporates the new *block exemption applicable to liner shipping consortia*. The new legislation replaces the old block exemption, which expired in April 2000.

Another corner stone in the new and more economic based competition policy is the incorporation by the EEA Joint Committee¹¹ of the new rules concerning so-called horizontal co-operation agreements, being co-operation agreements between companies operating at the same level in the market (*e.g.* at the same level of production or distribution). The new rules consist of a revised *block exemption on research and development agreements and specialisation agreements*. These rules must be seen in connection with the adoption of the new guidelines on horizontal agreements (see paragraph 5.2.2. below).

5.2.2 Non-binding acts

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

Through Article 25 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 should be read in the light of Article 5(1) (b) of the Surveillance and Court Agreement, which provides that the 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 concerns non-binding acts adopted by the European Commission after the signing of the EEA Agreement, the Authority is to adopt corresponding acts when EEA relevant.

On 22 May 2000, the Authority adopted a *notice on co-operation between national competition authorities and the EFTA Surveillance Authority in handling cases falling within the scope of Articles 53 or 54 of the EEA Agreement*¹². The aim of this notice is to encourage and facilitate increased national application of Articles 53 and 54 EEA or, when national authorities do not have power to do so, the application of national laws to obtain a similar result. Thus, the notice lays down guidelines for a better co-operation between the Authority and national competition authorities. This notice corresponds to a similar notice already adopted by the European Commission¹³. The notice may need to be revised in the context of the ongoing modernisation process initiated by the Commission.

During 2000, the European Commission adopted several new notices in the field of competition. As mentioned above in paragraph 5.2.1, the new legislative regime applicable to vertical and horizontal agreements is complemented with important new guidelines in each field. The Authority intends to adopt

⁹ Joint Committee Decision No 44/2000 of 19.5.2000, amending point 3 of Article 3 (1) of Protocol 21 to the EEA Agreements, which corresponds to Council Regulation (EC) No 1216/1999 of 10.6.1999 amending Regulation 17: first Regulation implementing Articles 81 and 82 of the Treaty.

¹⁰ Joint Committee Decision No 49/2000 of 31.5.2000, replacing point 11c of Annex XIV to the EEA Agreement, which corresponds to Commission Regulation (EC) No 823/2000 of 19.4.2000 on the application of Article 81(3) of the EC Treaty to certain categories of agreements, decisions and concerted practices.

¹¹ Joint Committee Decision No 113/2000 of 22.12.2000, replacing points 6 and 7 of Annex XIV to the EEA Agreement, which correspond to Commission Regulation (EC) No 2658/2000 of 29.11.2000 on the application of Article 81(3) of the EC Treaty to categories of specialisation agreements and Commission Regulation (EC) No 2659/2000 of 29.11.2000 on the application of Article 81(3) of the EC Treaty to categories of research and development agreements.

¹² OJ C 307, 26.10.2000, p. 6 and the EEA Supplement to the OJ 2000 61/05.

¹³ OJ C 313, 15.10.1997, p.3.

notices equivalent to the following two Commission notices in the course of 2001:

- *Guidelines on vertical restraints*¹⁴, adopted on 22 May 2000. The guidelines assist companies in carrying out their assessment under the competition rules by explaining which vertical agreements may benefit from the block exemption and by indicating the enforcement policy of the Commission in cases not covered by the block exemption.
- *Guidelines on the applicability of Article 81 of the ECTreaty to horizontal co-operation agreements*¹⁵, adopted on 29 November 2000. These guidelines cover agreements on research and development, production, marketing, purchasing, standardisation and environmental agreements.

The Commission adopted two new notices in the field of concentrations. The *notice on a simplified procedure*¹⁶ was adopted on 26 July 2000 and applies to concentrations notified as of 1 September of that year. It provides for a short form clearance decision within one month of notification for categories of concentrations which in the Commission's experience are normally cleared without having raised any substantive concerns. On 21 December 2000, the Commission also adopted a *notice on commitments acceptable to solve competition problems raised by mergers and acquisitions*¹⁷. The notice provides guidance as to which remedies can be proposed and implemented in order to obtain clearance from the Commission and sets out specific submission requirements.

The preparation by the Authority of non-binding acts corresponding to those adopted by the European Commission is subject to internal resource allocation. Pending the adoption of its own notices, the Authority intends to apply the principles set out in the Commission notices whenever relevant. As explained in paragraph 5.1, it is unlikely that a merger falling under the competence of the Authority will occur. Thus, the Authority has given lowest priority to the adoption of notices in the field of concentrations.

A comparative list of applicable notices adopted by the European Commission and the Authority in the field of competition is provided at Annex V of this report.

5.3 Cases

5.3.1 Overview

On 31 December 1999, there were 35 competition cases pending with the Authority. 28 cases related to the application of Articles 53 and 54 of the EEA Agreement.

Of these, 12 were based on notifications and 15 involved formal complaints. In addition the Authority continued its *ex officio* case, being its sector inquiry in telecommunications. It also had under consideration seven cases relating to the application of Article 59 (State measures) in combination with Articles 53 and/or 54 of the EEA Agreement.

From 1 January to 31 December 2000, 11 additional cases were opened, of which one raised Article 59 issues. Nine of the new cases were opened on the basis of formal complaints and two on the basis of a notification. During the same period, eight cases were closed. Thus, by the end of 2000, 38 cases were pending, of which six raised Article 59 issues.

The number of formal and informal complaints received in 2000 indicates a continued awareness among economic operators in the EFTA countries of the EEA competition rules and of the way in which infringements of those rules may be addressed through the EEA institutional set-up. The complaints and other more informal contacts by economic operators with the Authority have for the most part dealt with competition problems in sectors which have recently been liberalised or are in the process of being re-regulated. Examples of such sectors are the telecommunications, postal services and pharmaceuticals sectors.

In order to make efficient use of the Authority's resources in the field of competition, cases have as a rule been prioritised following a preliminary assessment of their importance. The Authority will normally give priority to cases which are of particular significance to the functioning of the EEA Agreement, *e.g.* cases which raise a new point of law, cases concerning the possibilities for firms from other EEA States to access relevant markets in the EFTA States, and cases involving alleged anti-competitive behaviour by public undertakings or undertakings to which an EFTA State has granted special or exclusive rights.


Informal contact is frequently made by economic operators or their legal representatives, often with a view to establishing whether there are grounds for making a formal complaint to the Authority. The Authority seeks to encourage such operators to undertake a certain amount of preparatory work before formally submitting their views to the Authority in respect of potential competition concerns. It is important that concerns be expressed as clearly as possible and that available supporting materials be provided. This gives the Authority a better opportunity to make an informed

¹⁴ OJ C 291, 13.10.2000, p. 1.

¹⁵ OJ C 3, 06.01.2001, p. 2.

¹⁶ OJ C217, 29.07.2000, p.32.

¹⁷ Adopted on 21.12.2000.



preliminary assessment of the arguments presented to it and to decide to what extent the case presents a sufficiently strong interest under the EEA Agreement to justify further action by the Authority.

The Authority also seeks to encourage economic operators to examine possible remedies available at national level. National competition authorities may have more detailed and precise knowledge of the markets and businesses concerned, in particular those with highly specific national features. National courts are able to ensure that competition rules will be respected for the benefit of individuals and to determine civil law effects, including the question of nullity and rights to claim damages, of infringements of the EEA competition rules.

The cases under consideration by the Authority in 2000 have raised important issues in respect of the application of EEA competition rules. As regards substantive matters, the European Commission and the Authority have sought to maintain a homogeneous approach to competition matters throughout the EEA. Wherever relevant the Authority has therefore co-operated, exchanged information with and consulted the Commission, in accordance with the provisions of the EEA Agreement. The EEA rules on the allocation of jurisdiction between the Authority and the Commission (Articles 56 and 57 of the EEA Agreement) have been scrutinised and have resulted in cases being transferred between the two authorities. Cases may only be transferred once.

5.3.2 Telecommunications

The Authority continued to follow market developments in the telecommunications sector, through informal meetings with operators and contacts with government representatives of the EFTA States. The Authority still had under review a number of cases concerning the use of telecommunications infrastructure and the provision of telecommunications services. In 2000 the Authority continued investigating a complaint concerning *alleged infringements by the incumbent telecoms operator in Liechtenstein* of the EEA competition rules, in relation to the terms on which it introduced its own Internet service provider, Blue Window. In a separate case, the Authority rejected a request for interim measures from a **Norwegian** service provider regarding the Norwegian incumbent's pricing conditions and conditions for technical access.

In addition, the Authority pursued the *sector inquiry*, initiated in 1999, in the territory of the EFTA States regarding certain aspects of the telecommunications sector. The Authority's inquiry was run in parallel to that carried out by the European Commission across the European Union. The Authority's investigation relates specifically to the provision and pricing of

leased lines; mobile roaming services; and the provision of access to and use of the residential local loop. For practical reasons, the Authority decided to assess these three areas in three phases. An inquiry into aspects relating to the unbundling of the local loop was thus initiated during the reporting period. The three phases of the Authority's sector inquiry were carried out in close co-operation with the Commission, in accordance with the provisions of the EEA Agreement. It is intended that the two authorities shall continue to co-operate in 2001, as regards the assessment of the comparative findings of the sector inquiry, with the aim to ensure, as regards follow-up, that the competition rules are applied consistently throughout the EEA.

The Authority will continue to follow closely the development of the competitive environment within the framework of the liberalisation of the telecommunications sector in the EFTA pillar.

5.3.3 Pharmaceuticals

In the course of the reporting period the Authority received three complaints and one notification concerning the **Norwegian** *markets for the wholesale and retail supply of pharmaceuticals and health care products*. These cases have arisen in the context of an ongoing liberalisation process of the Norwegian pharmacy market. A new Pharmacy Act was adopted by the Norwegian Parliament in April 2000 which will replace the currently applicable Pharmacy Act when it enters into force on 1 March 2001.

One of the aims of the new Act is to increase competition in the pharmacy market. First, the new Pharmacy Act changes the rules governing ownership of pharmacies. Although ownership remains subject to an authorisation procedure, owners of pharmacies are no longer required to be licensed pharmacists. Secondly, the government opens up for a substantial increase in the number of pharmacy sales outlets. Thirdly, the fostering of competition is introduced as a significant criterion when new ownership licences are granted. The responsible Norwegian authorities already introduced the competition criterion during the reporting period when granting licences to pharmacists under the existing regime. These regulatory changes have paved the way for new entry into the Norwegian pharmacy market and for a restructuring of the market.

In anticipation of the new regulatory environment, market players have taken steps leading to vertical integration between the wholesale and retail levels in terms of acquisitions and cross-ownership. At the retail level, pharmacy chains are being established, thereby altering the structure of competition. Concerns have been expressed by competitors and politicians

that certain of the agreements which have been concluded may have anti-competitive effects.

The cases lodged with the Authority have been dealt with as a matter of priority and will continue to be given priority during 2001. As a consequence of the regulatory measures introduced by the Norwegian authorities and the initiatives taken by market players, the markets concerned have been subject to major changes during 2000. Considerable resources were required in terms of market investigation on the part of the Authority. The Authority aims to ensure that a sufficient level of competition is maintained both in the wholesale and the retail markets to the benefit of the consumers in terms of lower prices, better choice and better services. In its handling of the cases concerned, the Authority will co-operate closely with the Norwegian competition authority.

In addition, the cases concerning the co-operation between **Norwegian** counties in the organization *Legemiddel Innkjøp Samarbeid (LIS)*, a detailed description of which was given in the 1999 Annual Report, were still pending with the Authority at the end of the reporting period.

5.3.4 Postal services

The Authority currently has under review two cases concerning alleged infringements of EEA competition rules in the postal sector.

During the reporting period, the Authority continued its investigation of a complaint concerning allegations that the **Norwegian Post**, *Posten Norge*, cross-subsidises activities in the fully competitive parcels market with revenues from the activities where Posten Norge has a monopoly and by operating a discriminatory discount system for its domestic parcels. The complaint also alleges that Posten Norge infringes State aids rules by exempting non-reserved services from VAT, granting direct subsidies to unprofitable services and allowing exemptions from national provisions. In 2000, the part of the complaint dealing with State aid was formally registered as a separate State aid case.

In 2000, the Competition and State Aid Directorate devoted significant resources to assessing documentation forwarded by the Norwegian authorities in relation to the above complaint. Informal contacts were also established with the European Commission where similar cases are under investigation. The Authority however considered that it did not possess sufficient information to reach a conclusion. A request for information was therefore sent to Norway Post in December 2000. The case will be dealt with as a matter of priority in 2001.


5.3.5 Other cases

In light of recent jurisprudence from the Court of Justice of the European Communities, the monopoly of the *public employment agency in the field of job placement services* in **Norway** has been reviewed by the Authority under Article 59 (1) and 54 of the EEA Agreement. The Authority has also been concerned about restrictions applying to private companies in the field of the hiring-out of workers. However, new rules and regulations regarding job placement and the hiring-out of workers entered into force in Norway on 1 July 2000 and have clarified the situation. The new legislation effectively liberalises the markets concerned. The former monopoly granted to the public employment agency in the field of job placement services and the legislative restrictions regarding the hiring-out of workers have been abolished. On this basis the Authority decided to close the case.

In the course of 2000, the Authority concluded its ex officio investigation into plans for the *creation of a single health sector database* for **Iceland**. The investigation was initiated shortly before the adoption of the relevant Icelandic Act No. 139/1998 in December 1998. The Competition and State Aid Directorate sought to ascertain whether the licence granted to the Icelandic undertaking deCODE Genetics under the Act in January 2000, for the preparation and operation of a centralised database in the healthcare sector in Iceland, would be in conflict with Articles 59(1) and 54 of the EEA Agreement. On the basis of the information it obtained in the course of its inquiries, the Authority concluded that there were no grounds for the Authority to take action against the Icelandic State in this matter under Article 59 of the EEA Agreement.

The Authority rejected a complaint relating to an award procedure initiated by the *Liechtenstein Bus Anstalt (LBA)* for the procurement of bus transport services in **Liechtenstein**. The complaint alleged that certain provisions contained in the tender documents were discriminatory and amounted to an abuse of LBA's dominant position. After having studied the matter the Competition and State Aid Directorate took the view that the allegations were in fact unfounded and the case was closed.

The Authority currently has under review a complaint from a broadcasting company against the **Norwegian** musical rights copyright management society *Tono* and *Norwaco*, which manages licensing on behalf of Tono. The complainant claims that the tariffs demanded by Norwaco on behalf of Tono for the distribution of TV programmes containing music are discriminatory, excessive and arbitrary. Being in a dominant position, the



societies are allegedly infringing Article 54 of the EEA Agreement. In May 2000, the Authority completed a preliminary assessment of the complaint. A final determination of the case is anticipated for 2001.

In 2000, the Authority considered that the European Commission was the competent authority, by virtue of Article 56 of the EEA Agreement, to deal with a complaint received by the Authority concerning the application of the EEA competition rules to a joint venture between the *UK Hydrographic Office* and the **Norwegian mapping authority, Statens kartverk**. Accordingly, the Authority adopted a Decision under Articles 2 and 10(3) of Protocol 23 to the EEA Agreement transferring the relevant parts of the case to the Commission. The case now falls to be decided by the Commission. However, under the co-operation rules set out in Protocol 23, the Authority will remain informed and will be able to comment on developments concerning the case. Finally, the transfer of the case does not prevent the Authority from opening an investigation under Article 59 of the EEA Agreement (State measures), should this be deemed necessary.

The Authority closed two cases concerning the distribution of motor vehicles in **Norway**. It also closed one case concerning the distribution of alcoholic beverages in Norway and another concerning wholesale furniture distribution in Norway.

5.4

CO-OPERATION WITH THE EUROPEAN COMMISSION

The EEA Agreement emphasises the need for close and constant co-operation between the Authority and the European 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 must the rules themselves be equal, but they must also be applied in such a way that the undertakings’ legitimate expectations of legal certainty, efficient handling and foreseeability are met throughout the EEA.

Article 109(2) of the EEA Agreement therefore calls for co-operation, the exchange of information and consultations between the two 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 of the EEA Agreement and detailed co-operation rules are contained in Protocols 23 and 24.

The European Commission and the Authority co-operate in the handling of individual cases which affect both EFTA and Community States 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 considered that eight of the 11 cases opened by the Authority in 2000 potentially affected one or more Community States and consequently the relevant documents were forwarded to the Commission for comments. During the same time, the Authority received copies of relevant documents from the European Commission under the co-operation rules in respect of 52 mixed cases handled by the Commission.

The EEA rules on co-operation in competition cases provide the authority which is not handling a case with a right to comment formally on the case at various stages (for instance, to comment on a notification and on any statement of objections issued) and with a right to obtain copies of the most important documents lodged with or issued by the competent authority. A specific aspect of the rules on co-operation laid down in Protocols 23 and 24 to the EEA Agreement is the right of both authorities to take part and express views in each others’ hearings and Advisory Committee meetings. The co-operation rights are also extended to the States over which each authority has jurisdiction, such that, in mixed cases handled by the Commission, the Authority will forward copies of documents received to the EFTA States and pass on any feedback to the Commission. In all such proceedings the views of the Authority remain independent from those of the EFTA States.

The Authority has focused on individual cases where the EFTA aspects are considered to be of particular importance. In 2000, the Authority was thus represented in 5 hearings conducted by the Commission, and in 8 meetings of the relevant Community Advisory Committees in individual competition cases.

5.4.1 Co-operation in the handling of individual merger cases

18 of the 52 new cases in which the Authority was involved under the co-operation rules related to notifications under the EC Merger Regulation. 12 of these merger cases involved in-depth (Phase II) investigations by the European Commission. Of the remaining six cases that were cleared by the Commission in the initial one-month phase of the investigation, one was authorised subject to commitments offered by the parties, and one was cleared under the new simplified procedure.

Thus, the Authority continued to devote significant resources in 2000 to participating in the assessment of concentrations in accordance with the rules on co-operation set out in the EEA Agreement. Besides its contacts with the Commission and the national authorities of the EFTA States concerned in any given case, the Authority was frequently approached by the parties to the concentration and by other market players who wished to make representations to the Authority in the context of the merger proceedings.

The following cases were given priority by the Authority on the basis of the significant impact of the proposed concentrations on one or more EFTA States:

Volvo's acquisition of *Scania* was still under consideration at the end of the last reporting period, having gone into Phase II in October 1999. The acquisition caused serious competition concerns in a number of markets in the Nordic countries and in the UK and Ireland. Volvo and Scania were the two closest competitors in most of these markets and the combined market shares of the two companies were very high. The acquisition would have created dominant positions in, amongst others, the markets for heavy trucks, inter-city buses and city buses in **Norway**. Although Volvo proposed a number of undertakings, these were not found sufficient to remove the serious competition concerns identified. The merger was therefore prohibited by the European Commission.

The acquisition by the private equity fund *Industri Kapital* of the **Norwegian** speciality chemicals company *Dyno* had a significant impact on the Nordic countries for a number of relevant products concerned. The European Commission considered that the notified operation raised serious competition problems and therefore opened an in-depth investigation. The operation was finally cleared subject to undertakings proposed by the parties, which removed the competition concerns that had been identified. The subsequent acquisition by *Industri Kapital* of the Swedish speciality chemical company, *Perstorp*, was cleared in Phase II subject to undertakings being given by the parties.

In July 2000, the **Norwegian** company *Aker Maritime* entered into several agreements effectively giving it 26.7 percent of the voting rights in the Anglo-Norwegian company *Kvaerner*. Aker Maritime and Kvaerner both have significant activities in the oil and gas sector as well as in shipbuilding. Aker Maritime notified the acquisition of the controlling stake in Kvaerner to the European Commission for regulatory clearance in October. The Commission opened an in-depth investigation into the transaction after an initial investigation showed that competition concerns

were raised on the markets for Engineering, Procurement, Construction and Installation (EPCI) contracts for oil and gas platforms and the market for the modification and maintenance of existing platforms (MMO). The combined Aker Maritime/Kvaerner would have had a high market share in both markets, particularly on the Norwegian Continental Shelf of the North Sea. In December 2000, Aker Maritime informed the Commission that it would limit its stake in Kvaerner and taken a number of measures to ensure that the notified transaction would no longer constitute a concentration. The notification was subsequently withdrawn.


In August 2000, the *Metso Corporation* of Finland notified its proposed acquisition of *Svedala AB* of Sweden to the European Commission. Both companies are among the world's largest manufacturers of rock crushing equipment. Several product markets in that sector were affected by the merger. The Commission initiated an in-depth investigation in September. Geographical markets were viewed as national in scope, thereby resulting in high market shares for the merged entity in a number of EEA countries, including **Norway**. At the end of the reporting period, the case was still under consideration by the Commission.

The acquisition by *SCA Mölnlycke Holding* of *Metsä Tissue Corporation* also remained under consideration by the European Commission at the end of the reporting period. The case went into Phase II in September 2000 due to the high market shares the merged entity would enjoy in the Nordic countries. The Commission has expressed concerns regarding the high concentration resulting from the proposed transaction in various tissue product markets.

5.4.2 Co-operation in the handling of other Commission cases

34 cases in which the Authority became involved in 2000 under the EEA co-operation rules concerned the application by the European Commission of Articles 81 and/or 82 of the EC Treaty, together with the corresponding provisions of the EEA Agreement (Articles 53 and/or 54). The Authority devoted resources to cases where the EFTA aspects were considered to be of particular importance.

In a case concerning a complaint under Article 82 of the EC Treaty and Article 54 of the EEA Agreement against the *collecting society* in Denmark, Sweden, Finland and **Norway**, the Authority took the view that, since each collecting society was dominant in a separate national market, the case should be treated as four separate cases and the facts concerning the



Norwegian collecting society should fall subject to the jurisdiction of the Authority. In October 2000 the European Commission agreed with this analysis and transferred the case concerning Norway to the Authority. Although the cases concerning Denmark, Sweden and Finland will cease to be treated as mixed cases, informal contacts will continue with the Commission in order to ensure that competition rules are applied consistently.

The case concerning the **Norwegian Gas Negotiation Committee** (*Gassforhandlings utvalget - GFU*) remained under review, as did cases concerning the electricity sector.

In the field of telecommunications, the Authority was involved in the European Commission's sector inquiry by virtue of the EEA co-operation rules, and as such was present at meetings where the comparative findings of the Commission concerning the provision and pricing of leased lines and mobile roaming services respectively were discussed.

5.4.3 Consultations on general policy issues

Protocol 23 to the EEA Agreement provides for the exchange of information and consultations on general policy issues. This typically includes proposals for revised legislation in the competition field forwarded by the European Commission as well as other policy-related questions. In 2000, a significant proportion of the Competition and State Aid Directorate's resources was devoted to participating in discussions on legislative reform.

During the reporting period, the Authority continued to be actively involved in discussions concerning the European Commission's *proposals for the modernisation of the rules implementing Articles 81 and 82 of the EC Treaty*. Following the debate initiated in 1999 by the Commission's White Paper, the Commission adopted in September 2000 a proposal for a Council Regulation. The proposed Regulation is intended to replace the current system of authorisation by the Commission of all restrictive practices requiring exemption, by a system whereby Article 81 of the EC Treaty will be directly applicable in full. This will result in better enforcement of Community competition rules, as not only the Commission but also the national competition authorities and national courts will be able to apply Article 81 in its entirety. Increased involvement of the national competition authorities and courts will result in decisions being adopted closer to the individual. Protection of competition will also be strengthened by the abolition of the notification system, as this will allow the Commission to concentrate

on the detection of the most serious restrictions and abuses. Lastly, the proposal intends to reinforce the investigating powers of the Commission.

The adoption in due course of a new Council Regulation will ultimately result in the transposition of that Council Regulation into the EEA legal framework. Once transposition has taken place, the functions of the Authority and the EFTA States in applying the EEA competition rules within the EFTA pillar will mirror those of the European Commission and the EU Member States within the EU pillar. In 2001, a number of issues will have to be reviewed with the Commission. One of them, for instance, is how the two pillars are to co-operate under the new system in order to preserve the homogeneous application of competition rules throughout the EEA.

During 2000, the Authority took an active part in meetings concerning the adoption by the European Commission of its guidelines on vertical restraints and on the review of competition rules relating to horizontal agreements. In May 2000, the Authority submitted comments supporting the Commission's overall approach to the reform on horizontal agreements and setting out its view on certain specific aspects.

The Authority took part in a working group with national competition authorities organised by the European Commission to discuss competition policy in the motor fuel sector. The aim of the meeting was to assess how competition policy can render the motor fuel sector more competitive and to exchange experiences in order to strengthen the enforcement of antitrust rules at national and European level.

The Authority also participated in consultations on the revision of the block exemption applicable to liner shipping consortia and the block exemption on motor vehicle distribution.

Finally, the Authority attended a meeting of national experts on the operation of the EC Merger Regulation thresholds. The purpose of the meeting, which preceded the adoption of a European Commission report¹⁸, was *inter alia* to review the extent to which the additional jurisdictional thresholds introduced in 1998 were appropriate to deal with concentrations with a cross-border effect.

Altogether, the Authority was represented at 15 expert and Advisory Committee meetings organised by the European Commission concerned with consultation on general policy and legislative issues in 2000.

¹⁸ Report from the Commission to the Council on the application of the Merger Regulation thresholds, COM(2000) 399 final, 28/06/2000.



Competition and State Aid Directorate:

Behind from left to right:
Alexandra Antoniadis,
Daniela Cummins,
Director Arund Utne,
Cécile Odello,
Monica Wroldsen

In front from left to right:
Astrid Erlingsen,
Rolf Egil Tønnessen,
Anny Tubbs,
Tormod Sverre Johansen

Not present: Eggert B. Ólafsson

5.5 IMPLEMENTATION CONTROL


The Authority is to ensure that the EEA competition rules are implemented into the national legal orders of the EFTA States. This applies not only to the basic rules contained in Articles 53 to 60 of the EEA Agreement, but also to the relevant provisions in Protocols 21 to 25 to the EEA Agreement, the acts referred to in Annex XIV to the EEA 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.

According to information received from **Norway**, all new acts incorporated into the EEA Agreement by the EEA Joint Committee in 2000 in the competition field have been implemented on a national level during 2000.

Since the previous reporting period **Iceland** has not incorporated Commission Regulation (EC) No 1083/1999, nor any of the new acts incorporated into the EEA Agreement by EEA Joint Committee decisions in 2000. This means that Iceland is lagging up to 18 months behind in incorporating new EEA acts in the field of competition. The Authority will continue to monitor developments in 2001.

As regards **Liechtenstein**, international agreements entered into by the State automatically become a part of the national legal order. Thus, it is not necessary to undertake specific implementation measures to the same extent as in Norway and Iceland. The Authority has not found that any specific implementation measures were necessary in Liechtenstein as a consequence of the new acts included in the EEA Agreement during 2000.

In 2000, the Authority re-iterated the serious concerns it had voiced to the ESA/Court Committee in the previous reporting period about the lack of publication of amendments made to the Surveillance and Court Agreement since its signature in 1992. Changes to the Surveillance and Court Agreement agreed between the EFTA States, which include the procedural rules to be followed by the Authority when handling competition cases (Protocol 4), are not published. Furthermore, the date of entry into force of amendments, which is to be the date of deposit of instruments of acceptance by the EFTA States with the Government of **Norway**, is not systematically made public. This creates the unsatisfactory situation where it is difficult for the individuals and EFTA States subject to the rules in question, and the EEA institutions entrusted with the task of applying and enforcing these rules, to ascertain which rules are applicable at any given time. Thus, the principle of transparency and homogeneity within the EEA is seriously jeopardized. This has a particular bearing on the



application of the EEA competition rules, which directly confer rights and obligations on undertakings within the EEA. The Authority believes this situation must be remedied as a matter of urgency.

5.6 LIAISON WITH NATIONAL AUTHORITIES

An important element in the application of EEA competition rules is co-operation between the Authority and the national authorities of the EFTA pillar. Protocol 4 to the Surveillance and Court Agreement lays down rules which provide for close and constant liaison between the Authority and the competent national authorities. The competent authorities are in **Norway** and **Iceland** the national competition authorities, and in **Liechtenstein** the Office for National Economy.

As regards co-operation in the field of individual cases, the national authorities were invited to give their comments on cases handled by the Authority, including cases falling under the European Commission's competence which were being considered by the Authority in the context of the co-operation procedures outlined above. Comments submitted by the national authorities proved to be valuable contributions, enabling the Authority and the Commission to benefit from the knowledge of national markets which the national authorities have to hand and to have access to their staff specialised in different sectors of the economy.

In the context of general co-operation, the Authority organised meetings during 2000 with the **Norwegian** and the **Icelandic** competition authorities in order to discuss procedures for dealing with competition cases under the EEA Agreement and to enable a review of the authorities' respective cases so as to maintain a smooth working relationship between the national competition authorities and the Authority.

6.1 MAIN RULES OF THE EEA AGREEMENT

The basic substantive provisions on State aid are found in Article 61 of the EEA Agreement. The primary procedural rules are set out in Article 1 of Protocol 3 to the Surveillance and Court Agreement. These provisions are comparable to Articles 87 (previously Article 92) and 88 (previously Article 93) of the EC Treaty. Their aim is to ensure that conditions of competition for enterprises are equal and not distorted by State measures.

The main rule in Article 61 is that aid granted through State resources which distorts or threatens to distort competition and affects trade between the EEA Contracting Parties, is incompatible with the EEA Agreement. The second and third paragraphs of Article 61 add certain exception clauses to this main rule.

The concept of State aid is a broad one, embracing not only subsidies in the strict sense of the word, but also public support measures in various other forms. This can be *inter alia* tax exemptions, loans on preferential terms, State guarantees and investments in share capital by public authorities on terms not acceptable to a private investor.

An EFTA State shall not put into effect 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.

In a first stage of State aid procedures, the Authority can either decide not to raise objections to an aid proposal, or it will open a formal investigation pursuant to Article 1(2) of Protocol 3 of the Surveillance and Court Agreement. The final decision can be positive (approv-

ing the aid), negative (prohibiting the aid) or conditional (approving the aid subject to conditions).

If aid is granted in breach of the notification requirements, the Authority may request that the EFTA State suspend payment of the aid pending the outcome of an investigation. If the Authority concludes that such unlawfully granted aid is also incompatible with the EEA Agreement, it orders, as a rule, the EFTA State to reclaim the aid from the recipient.

Apart from deciding on all plans to grant or alter aid, the Authority is also obliged, under Article 1(1) of Protocol 3 to the Surveillance and Court Agreement, to keep under constant review all systems of existing aid in the EFTA States. If the Authority finds that existing measures are incompatible with the State aid rules, it shall propose appropriate measures to the EFTA State concerned to amend or to abolish the measures. If such a proposal is declined, the Authority can open the formal investigation procedure mentioned above.


Decisions by the Authority in State aid cases may be challenged before the EFTA Court.

Protocol 26 to the EEA Agreement stipulates that the Authority is entrusted with equivalent powers and similar functions to those of the European Commission in the field of State aid. Provisions to that effect are contained in Articles 5 and 24 of, and Protocol 3 to, the Surveillance and Court Agreement. Furthermore, Protocol 27 to the EEA Agreement lays down the principles according to which the Authority and the Commission shall co-operate in order to ensure a uniform application of the State aid rules.

6.2 Development of State aid rules

6.2.1 Legislation

The *EC Council Regulation laying down detailed rules for the application of Article 93 of the EC Treaty*, adopt-



ed in 1999¹⁹, shall be incorporated into the EEA context by amending Protocol 26 to the EEA Agreement as well as Protocol 3 to the Surveillance and Court Agreement. The Authority submitted proposals for amendments to the EFTA States. It can be expected that the new procedural rules will be incorporated into the EEA context in the course of 2001.

In 2000, the European Commission adopted amendments to a *Commission Directive on the transparency of financial relations between Member States and public undertakings* ("Transparency Directive")²⁰. These amendments seek to ensure the availability of data necessary to assess the compatibility of State measures under Article 86 EC Treaty (Article 59 EEA Agreement). The amending Directive still has to be incorporated into the EEA Agreement.

On the basis of EC Council Regulation on the application of Articles 92 and 93 of the Treaty establishing the European Community to certain categories of horizontal State aid²¹, the European Commission adopted in December 2000 three so-called group exemption regulations declaring certain categories of State aid compatible with the common market. These regulations concern aid in favour of small and medium-sized enterprises, aid for training, as well as *de minimis aid*²². These regulations will to a large extent replace existing guidelines and frameworks in the same areas. They will abolish the notification requirement for those aid measures covered by the group exemptions and will thus contribute to an administrative simplification for both the Member States and the Commission. These regulations remain to be incorporated into the EEA Agreement.

Finally, it should be mentioned that pursuant to Article 3 (1) of *EC Council Regulation EC establishing new rules on aid to shipbuilding* and as from 1 January 2001, aid in support of contracts for shipbuilding and ship conversion ("contract-related operating aid") is no longer permissible. This means that for contracts signed after 31 December 2000, operating aid may no longer be granted.

6.2.2 The Authority's State Aid Guidelines

Points 2 to 37 of Annex XV to the EEA Agreement refer to acts, adopted by the EC Commission up to 31 July 1991, of which the Authority shall take due account (non-binding acts) when applying the EEA State aid rules. These acts comprise communications, frameworks, guidelines and letters to Member States which the Commission, at various points of time, has issued

for the interpretation and application of Articles 87 and 88 (previously Articles 92 and 93) of the EC Treaty.

In accordance with Article 5(2)(b) and Article 24 of the Surveillance and Court Agreement, the Authority has adopted corresponding acts. Relevant communications, frameworks, guidelines and notices issued by the Commission have been codified by the Authority in one single document, the Procedural and Substantive Rules in the Field of State Aid, also referred to as the State Aid Guidelines. The Authority initially issued these Guidelines in January 1994. They have since been regularly updated. A comparative list of acts adopted by the Commission and the Authority in the field of State aid is provided at Annex VI of this report.

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. They also include all substantive State aid guidelines adopted by the Authority. The Guidelines contribute to increased transparency in the field of State aid by providing guidance on substantive and procedural matters to national authorities and interested parties.

The Authority has closely followed the development on new non-binding State aid acts being prepared by the European Commission and has contributed to the preparation of such acts. In 2000 the Authority held two multilateral meetings in the field of State aid, in which Commission proposals concerning contract-related guarantees to the shipbuilding sector, new environmental guidelines and the extension of the guidelines regarding aid to the motor vehicles industry were discussed with experts of the EFTA States.

The State Aid Guidelines were amended five times in 2000.

In February 2000, the Authority introduced *guidelines on co-operation between national courts and the EFTA Surveillance Authority in the State aid field*. These guidelines are based on the EC Commission's notice on co-operation between the national courts and the Commission in the State aid field, which was issued on 23 November 1995.²³ The guidelines explain how the EFTA Surveillance Authority intends to assist national courts in applying and interpreting Articles 61 and 62 of the EEA Agreement. A close co-opera-

¹⁹ OJ No L 83, 27.03.1999.

²⁰ OJ No L 193, 29.07.2000, p. 75.

²¹ OJ No L 142, 14.05.1998.

²² OJ No L 10, 13.01.2001.

²³ OJ No. C 312, 23.11.1995, p. 8.

tion between the national courts and the EFTA Surveillance Authority is particularly important in order to ensure that possible breaches of the “stand-still obligation”, laid down in Article 1 (3) second sentence of Protocol 3 of the Surveillance and Court Agreement²⁴, are dealt with and remedied. The “stand-still provision” provides that the EFTA States shall not put aid measures into effect until the examination of such measures has resulted in a final decision. The prohibition on implementation extends to all aid which has been implemented without being notified. The national court’s role is to safeguard rights which individuals enjoy as a result of the stand-still obligation by using all appropriate remedies under national law, such as interim relief, for example by ordering the freezing or return of aid illegally paid, and award compensation for the damage suffered. National courts may ask the EFTA Surveillance Authority for information of a procedural manner as well as in cases where the interpretation of Article 61 (1) of the EEA Agreement causes particular problems. The Authority’s information will not have a binding character on the requesting national court and the court’s right to request an advisory opinion from the EFTA Court is unaffected.

In February 2000, the Authority further decided to *extend the period of validity of the rules on aid for environmental protection* (“Environmental Guidelines”) until 31 December 2000. In this context, it should be mentioned that the EC Commission adopted new Environmental Guidelines in December 2000. Similar guidelines will be incorporated into the Authority’s State Aid Guidelines in the beginning of 2001.

In March 2000, the Authority decided to *extend the period of validity of the rules on aid to the synthetic fibres industry* until 31 December 2001.

In April 2000, the Authority introduced *new guidelines for the reference rate of interest*. These guidelines follow the EC Commission’s notice on the method for setting the reference and discount rates.²⁵ The reference rate is used to measure the grant equivalent of aid that is disbursed in several instalments and to calculate the aid element resulting from interest subsidy schemes for loans. The reference rate is determined by using the indicative rates of yield on five-year State bonds, plus a premium of 25 basis points. As from 1 April 2000, the reference rates for **Iceland** and **Norway** were determined as being 9,38% and 6,12% respectively. From 2001 onwards, the reference rates will be fixed with effect from 1 January of the respective year. It will then be made known by the EFTA

Surveillance Authority on Internet at the following address: <http://www.efta.int>.

In April 2000, the Authority also issued *new guidelines on the application of the EEA State aid provisions to State guarantees*. These guidelines are based on the EC Commission’s notice on the application of Articles 87 and 88 of the EC Treaty to State aid in the form of guarantees, which was issued in November 1999.²⁶ The purpose of these guidelines is to give EFTA States more detailed explanations about the principles on which the EFTA Surveillance Authority intends to base its interpretation of Articles 61 and 62 of the EEA Agreement with respect to State guarantees. The guidelines lay down the conditions which, if fulfilled, exclude the existence of aid. It further explains how, if the above conditions are not met, the aid contained in a guarantee is calculated. Following the adoption of these guidelines, the EFTA Surveillance Authority has requested the EFTA States to provide it with information on all guarantees/guarantee schemes in force.

6.3 CASES

6.3.1 Statistics on cases

At the beginning of the reporting period, 36 State aid cases were under examination by the Authority, including three notifications of new aid, 13 complaints and 20 own initiative cases. 17 new cases were opened in 2000 and 15 cases were closed, implying that 38 cases were pending with the Authority at the end of the year. Of the 17 new cases registered, 12 were notifications of new aid, two were complaints and three were opened on the Authority’s own initiative. In eight cases of notified new aid and in one own initiative case the Authority was able to conclude that measures – some times after adjustments – were compatible with the functioning of the EEA Agreement. Three complaints were closed without further action.

²⁴ The “standstill provision” has been implemented in Iceland by Chapter XI, Article 46 of the Competition law, Act No. 8/1993, as amended by Act No. 24/1994, 83/1997 and 82/1998. In Norway the provision has been implemented by Article 2 of the regulation relating to the implementation of the provisions on State aid of the EEA Agreement (Royal Decree of 4 December 1992 pursuant to Act No. 117 of 27 November 1992 relating to State aid, as amended by Royal Decree of 31 March 1995 and Royal Decree of 13 September 1996. Since Liechtenstein has a monistic system, the “standstill provision” has direct effect in the Liechtenstein legal order.

²⁶ Published in OJ C 71, 11.3.2000, p. 14.

²⁵ Published in OJ C 273, 9.9.1997, p. 3.



Two decisions were taken by the Authority to open a formal State aid investigation in 2000.

6.3.2 Aid to small and medium-sized enterprises (SMEs) and for Research and Development (R&D)

In July 2000, the Authority decided not to raise objections to two notifications from **Norway** on amendments to two schemes, the Project Development Grant Scheme ("*Prosjektutviklingstilskudd*") and the Development Grant Scheme ("*Utviklingstilskudd*"). The Norwegian Authorities decided to amend the schemes for the purpose of applying the rules on aid for training and shipbuilding. The existing provisions of the schemes were also adapted to the rules for SMEs and R&D. The objectives of the schemes remained unchanged. The amendments did not have any budgetary or administrative consequences. The schemes are administered by the Norwegian Industrial and Regional Development Fund ("*Statens Nærings- og Distriktsutviklingsfond*").

6.3.3 Aid for environmental protection

In March 2000, the Authority decided not to raise objections regarding aid granted by **Norway** to *Miljøbil Grenland*. The aid consisted in two grants from local development funds in order to cover marketing expenses incurred by Miljøbil Grenland AS related to the leasing of electrically powered cars. The Authority considered that the marketing expenses incurred by Miljøbil Grenland AS exceeded those of normal leasing companies and was due to Miljøbil Grenland AS' various information and publicity activities, such as its participation in international conferences and the dissemination of knowledge about electrically powered cars. The Authority concluded that State support for these marketing activities did not exceed the additional marketing expenses incurred by Miljøbil Grenland AS. Furthermore, in view of the environmentally beneficial effects of the project the aid could be considered compatible with the functioning of the EEA Agreement.

6.3.4 Aid to media, film and culture

In September 2000, the Authority approved aid granted by **Liechtenstein** under the *Media Support Act*. The Media Support Act provides for aid to the print and electronic media in order to ensure an appropriate level of information on Liechtenstein events and to promote media diversity and pluralism. The Authority regarded the objective of preserving and promoting media pluralism and media diversity to be in the common interest. It further concluded that, in particular due to the special situation regarding the media envi-

ronment in Liechtenstein, the aid granted under the Act could be considered to be proportional and necessary for the achievement of these goals.

In December 2000, the Authority closed a formal investigation procedure against the *Icelandic film support scheme* and decided to authorise aid granted under an amended Act on temporary reimbursement of film production costs in **Iceland**. In June 1999, the Authority had opened a formal investigation procedure regarding Act No. 43/1999 on temporary repayment of film production in Iceland. Doubts as to the compatibility of the scheme were based on the apparent lack of cultural criteria for the selection of eligible films as well as the fact that only those costs incurred in Iceland would be eligible for repayment under the scheme and the requirement that the film producer must be established in Iceland. After further consultations between the Icelandic Government and the Authority, the Icelandic authorities submitted amendments to the Act No 43/1999 which took the Authority's concerns into account. The Icelandic Parliament adopted the new Act on film support in December 2000. Consequently, the Authority could close the formal investigation procedure and approve the aid under the film support scheme.

In addition, the Authority initiated a *review of existing film support schemes* in **Iceland** and in **Norway** in order to examine whether these schemes were in accordance with requirements established in numerous decisions taken by the European Commission with respect to film support schemes in various EC Member States. As regards the Icelandic Film Fund, the Authority was satisfied that these requirements were fulfilled. With respect to existing film support schemes in Norway, the Authority entered into discussions with the Norwegian authorities, in particular with a view to reducing the present aid intensities to an acceptable level. The assessment of these schemes under the EEA State aid provisions will be resumed in 2001 on the basis of proposals by the Norwegian Government to reform the current system for film support.

6.3.5 Aid to training

In March 2000, the Authority approved a *new training aid scheme* in **Norway**. This scheme replaced an existing scheme for in-house training. The training grants shall contribute to prevent exclusion from the labour market in circumstances of major re-adjustments, maintain and strengthen the competence of employees in firms which have re-adjustment or structural problems or to recruit for vacancies which are difficult to fill. The Authority came to the conclusion that the criteria and intensities foreseen for the new

training aid scheme reflected the requirements set out in Chapter 18A of the Authority's State Aid Guidelines on training aid and that the scheme was therefore compatible with the functioning of the EEA Agreement.

6.3.6 Aid to transport

In June 2000, the Authority closed an own-initiative investigation regarding *compensation payments to Widerøe's Flyveselskap ASA* for the provision of aviation services on the Fargenes-Oslo route. Although the Norwegian authorities had – due to unforeseeable circumstances – not followed the procedures laid down in Regulation No. 2408/92 for selecting an air carrier, the Authority took the view that due to the fact that **Norway** had carried out an albeit limited tender procedure, the compensation payment awarded to the thus selected air carrier could be regarded as the market price for carrying out the services concerned.

In July 2000, the Norwegian Government notified a draft agreement between the Norwegian Ministry of Transport and Communications and two shipping companies regarding the provision of regular maritime transport services along the coast of **Norway** between Bergen and Kirkenes ("*Hurtigruten*" Agreement). The notified agreement provides for compensation to be paid by the Norwegian State for services which are considered to be in the general economic interest (in particular the maintenance of adequate maritime transport services during the winter period). This agreement is supposed to replace the existing agreement, which is due to expire at the end of 2001.

In October 2000 and following the Norwegian Government's proposal of the State Budget for 2001, in which it was foreseen that air carriers serving certain regional routes could benefit from an *exemption from the air passenger tax*, the Authority started an own-initiative investigation requesting **Norway** to submit all relevant information enabling the Authority to assess the compatibility of this proposal in particular with State aid rules in the aviation sector.

In December 2000, the Authority opened a formal investigation regarding a *compensation scheme for express bus operators* in **Norway**. This scheme is intended to compensate these bus operators for payments of the regular autodiesel levy. Before 1999, they were exempted from the levy. Following a complaint lodged by Norwegian tour operators, the Authority started a preliminary examination of the compensation scheme at issue. The opening of the formal investigation procedure was necessary since the Authority had serious doubts as to the compatibility of the scheme with the


EEA State aid provisions and in particular the Authority's State Aid Guidelines on environmental aid.

6.3.7 Aid to telecommunications

In 1999, the Authority initiated an own-initiative case regarding possible aid granted to *Landssíminn*, the **Icelandic** Telecom operator. This investigation followed the conclusions of the Icelandic Competition Council which expressed the view that Landssíminn had received illegal aid by means of an under-valuation of the transferred assets and through reductions of pension obligations when the former Post and Telecom Administration was transformed into a public limited liability company. In January 2000, the Authority received a complaint from a competitor alleging in addition that Landssíminn had enjoyed financial benefits through an exemption from the stamp duty on shares issued by Post and Telecom Ltd. The Icelandic authorities have carried out a fresh assessment of the value of the transferred assets. In April 2000, experts entrusted with this re-assessment came to the conclusion that the company's assets were in fact undervalued by ISK 3.8 billion. Following this conclusion, Landssíminn will repay the amount of ISK 3.8 billion with interest to the Icelandic Treasury. In addition, an exemption from stamp duty has been removed retroactively. In light of these developments, the Authority will carry out a final assessment of this case in the beginning of 2001.

6.3.8 State ownership and aid to public enterprises

In June 2000, the Authority decided to close without further action its examination of the framework conditions for the **Norwegian** State Housing Bank (*Den norske Stats Husbank – "Husbanken"*). The case originated in 1995 as a complaint that the Husbanken arrangement was not in conformity with the provisions of the EEA Agreement, in particular the State aid rules. In a first decision of July 1997 the Authority concluded to close the case without further action. This decision was challenged before the EFTA Court. The Court in its judgement of March 1999 concurred with the Authority's view that Husbanken received State aid and that Husbanken was entrusted with the operation of services of general economic interest in the meaning of Article 59(2) of the EEA Agreement. Such services may on certain conditions be exempted from the prohibition of State aid. The Authority's decision was based on this provision. The Court found, however, that the Authority had not elaborated to a sufficient degree that the conditions of Article 59(2) were fulfilled, *inter alia*, that trade was not affected to an extent contrary to the interests of the Contracting Parties to the EEA Agreement. On this basis, the Court



annulled the Authority's decision. In the new decision of June 2000, the Authority addressed in more detail the various conditions for applying the exemptions as provided for in Article 59(2) and concluded to close the case without further action. This time, the complainant refrained from challenging the decision before the EFTA Court.

In July 2000, the Authority closed a complaint concerning alleged aid to two State-owned commercial banks in **Iceland**. The case was initiated following a complaint lodged in 1995 alleging that the two State-owned commercial banks benefited from a statutory State guarantee on all its obligations and that the State as owner did not require a normal rate of return. Consequently, the Icelandic Parliament adopted Act No. 50/1997 on the Establishment of Limited Liability Companies to operate *Landsbanki Íslands* and *Bunæðarbanki Ísland*. In accordance with this Act, both banks were established as limited liability companies with effect from 1 January 1998. At the same time, the previous State guarantees were also abolished. As to the allegation that the State did not require a normal rate of return, the Authority was satisfied that the results recorded by both banks in 1998 did not indicate that the Icelandic state acted different from a private market economy investor. Consequently, the Authority decided to close the case without further action.

In July 2000, the Authority decided to close a complaint alleging that *prices on electric power* in future contracts between the **Norwegian** State owned power producer, *Statkraft*, and 16 enterprises would be below market prices and that this would be contrary to Article 61 of the EEA Agreement. Statkraft would be obliged to enter into the mentioned contracts on the basis of conditions established by the Norwegian Parliament. The complainant referred to a proposal from the Government to Parliament, St. prp. nr. 52 (1998-99) *Om Statkrafts industrikontrakter og leieavtaler*. After consultations with the Authority, the Norwegian Government submitted a new proposal to Parliament in May 2000.²⁷ This proposal suggested the elimination of certain price links between old power contracts between Statkraft and certain enterprises and new contracts as outlined in St. prp. nr. 52 (1998-99). The proposal was adopted by Parliament in June 2000. Against the background of the mentioned amendments and based on comprehensive information submitted by the Norwegian authorities and actors in the electricity market, the Authority concluded that the relevant contracts to be entered into would not contain State aid.

In September 2000, the Authority decided to close the case regarding the **Icelandic Alcohol and Tobacco Monopoly (ATVR)**. The closure of this case, which was initiated back in 1995, was possible after the Icelandic Government had adopted a new regulation on the operation of ATVR, which stipulated that ATVR should no longer be engaged in the import of alcoholic beverages for wholesale or retail sale.

In December 2000, the Authority did not raise objections to a notification from **Norway** on the Norwegian State's involvement with the establishment of an *Information Technology Centre (IT-Centre) at Fornebu* (the site of the former Oslo Airport). The State's involvement in the IT-Centre is partly that the State participates in a share capital increase in two limited enterprises with the aim of establishing and running the IT-Centre, and partly that the State would sell its property at Fornebu to one of the enterprises. The Authority received a notification from the Norwegian authorities in May 2000. The Authority found that the Norwegian State as investor would not be in any less favourable position than similar private shareholders. The Authority's conclusion was therefore that the Norwegian State's role as an investor in the IT-Centre did not raise any concern from a State aid point of view. Concerning the sale of the State's land and buildings, the Norwegian Parliament in March 2000 decided that the price should be reduced by 5% (some EURO 4.1 million) compared to the estimated market value of some EURO 82.7 million as set by a group of independent appraisers. In a letter to the Norwegian authorities, the Authority stated that this reduction might not be in accordance with the State aid rules. This reduction was revoked in an amended notification received in November 2000 and was therefore no longer an issue for the Authority. The Authority concluded that the sale of land and buildings had been conducted in accordance with the rules and that there was no State aid element in the agreement on the sale of land and buildings.

The Authority's State Aid Guidelines on the application of the EEA State aid provisions to *short-term export-credit insurance* adopted in 1998 requested EFTA States to amend, where necessary, the existing systems for export-credit insurance for marketable risks in such a way that the granting of State aid of the kind identified in the Guidelines was ended before 1 January 1999. In the beginning of 2000, the Authority resumed its examination of proposals submitted by the **Norwegian** authorities. Following an exchange of views, the Norwegian authorities informed the Authority that short-term export

²⁷ St. prp. nr. 78 (1999-2000) *Endringer i vilkårene for Statkrafts industrikontrakter og leieavtaler*.

credit insurance activities, formerly provided by the State export credit institute (GIEK), would in the future be provided by a separate legal entity.

6.3.9 Regional aid

In July 2000, the Authority decided not to raise objections to a notification from **Norway** on amendments to the Regional Development Grant Scheme (*"Distriktsutviklingstilskudd"*).

The Norwegian Authorities decided to amend the scheme for the purpose of applying the rules on aid for training and shipbuilding. The existing provisions of the scheme had also been adapted to the rules for small and medium-sized enterprises (SMEs) and research and technology (R&D). The objectives of the scheme remained unchanged (regional aid and aid to SMEs). The amendments did not have any budgetary or administrative consequences. The scheme is administered by the Norwegian Industrial and Regional Development Fund (*"Statens Nærings- og Distriktsutviklingsfond"*).

In July 2000, the Authority decided to initiate formal State aid procedures provided for in Article 1(2) of Protocol 3 to the Surveillance and Court Agreement with regard to regional aid in **Iceland**. According to State Aid Guidelines which the Icelandic authorities have accepted, a map of areas eligible for regional aid as from 1 January 2000, should have been notified to the Authority by 1 May 1999. By July 2000, a formal notification had still not been received. As no aid map had been notified to, and approved by the Authority, any regional aid granted in Iceland after 1 January 2000 is unlawful. The Authority's decision requests the Icelandic authorities to refrain from applying regional aid and to submit full details on the application of regional aid in Iceland and any other information relevant to the assessment of the case. It was also noted that the Authority can order Iceland to recover any aid which has been disbursed in infringement of the State aid rules.

6.4 CO-OPERATION WITH THE EUROPEAN COMMISSION

Protocol 27 to the EEA Agreement lays down the various areas in which the European Commission and the Authority are to 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 at different levels. The practice established in 1994 of hold-

ing periodic meetings at Director level was continued. Formal consultations took place on the Commission's new drafts on non-binding State aid acts (State aid guidelines), thus enabling the Authority to submit its comments and those of the EFTA States to the Commission. Cross-representation of both authorities in multilateral meetings with Member States also continued. Furthermore, the Authority and the Commission informed each other of all State aid decisions. With regard to individual cases, further information was also provided on a case-by-case basis upon request by the other authority.

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

6.5 OTHER TASKS

6.5.1 Annual reporting on existing aid schemes

As is foreseen in the State Aid Guidelines, it has been the Authority's practice to request the submission of annual reports on new State aid schemes that it has authorised. The information in these reports is particularly focused on the annual aid expenditure under the schemes and its breakdown with regards to the main recipients as well as according to sectors, forms of aid, etc. Furthermore, based on decisions by the Authority in 1995, Iceland and Norway have agreed to submit standardised annual reports on existing aid schemes.

6.5.2 State aid survey

According to Protocol 27 of the EEA Agreement, the Authority is charged with the responsibility to periodically prepare a quantitative survey of State aid in the EFTA States. Besides enabling the Authority to monitor the application of existing aid schemes, annual reports will be the primary source of information for such surveys. The Authority will draw up the State aid surveys in co-operation with the EFTA States. It aims to finalise its first survey in the course of 2001.



THE AUTHORITY BEFORE THE EFTA COURT AND THE EUROPEAN COURT OF JUSTICE

7.1 CASES BEFORE THE EFTA COURT

In 2000, nine cases were registered at the EFTA Court. Of these, seven were requests for advisory opinions lodged by national courts that were confronted with questions of interpretation of EEA law. Two cases were actions brought by the Authority against an EFTA State because the Authority considered that the EFTA State in question had failed to fulfil its obligations under EEA law.

Of the seven requests for advisory opinions, two emanated from **Iceland**, three from **Liechtenstein** and two from **Norway**. In accordance with its settled policy, the Authority lodged observations in all seven cases.

Both Icelandic requests were brought by the District Court of Reykjavik ('Héraðsdómur Reykjavíkur'). The first one, Case E-1/00, concerned in substance national provisions on State guarantees for loans taken with financial bodies. For loans taken with non-Icelandic financial bodies, a fee was due for the State guarantee while for loans taken with Icelandic financial bodies, no fee or only a reduced fee was due for the guarantee. The main question asked by the Reykjavik District Court was in essence whether the provisions of the EEA Agreement on free movement of services and capital had to be interpreted so as to preclude such national legislation. In its Judgment of 14 July 2000, the EFTA Court found that such legislation was contrary to the provisions on free movement of capital. The Judgment is available at the EFTA Court's web site <http://www.efta.int/docs/Court/Publications>. The other Icelandic request, Case E-7/00, raises in essence the question whether the Motor Insurance Directives are to be interpreted so as to preclude certain national rules on the calculation of compensation to victims of road accidents. The Motor Insurance Directives are

the First Motor Insurance Directive (72/166/EEC), the Second Motor Insurance Directive (84/5/EEC) and the Third Motor Insurance Directive (90/232/EEC) and they are referred to in Annex IX of the EEA Agreement. Case E-7/00 is still pending before the EFTA Court.

The three Liechtenstein requests were brought by the Administrative Court of the Principality of Liechtenstein ('Verwaltungsbeschwerdeinstanz des Fürstentums Liechtenstein'). The requests, Cases E-3/00, E-4/00 and E-5/00, raise in essence the question whether the EEA provisions on freedom of establishment are to be interpreted so as to preclude national rules according to which dentists or doctors who want to have an establishment in Liechtenstein, have to give up the establishment they have in another EEA State. The three Cases are still pending before the EFTA Court.

Of the Norwegian requests, one was brought by the City Court of Oslo ('Oslo byrett'), Case E-2/00, and the other one by the Labour Court of Norway ('Arbeidsretten'), Case E-8/00. Case E-2/00 concerned two Statements by the EEA Joint Committee, one from 1995 and the second one from 1999. The question asked by the City Court of Oslo was essentially whether the two Statements should be interpreted so as to empower Norway to adopt labelling requirements for polyacrylamide stricter than those which follow from the *Substances Directive (67/548/EEC)*, with later amendments. The Substances Directive is referred to in Annex II of the EEA Agreement. In its Judgment of 14 July 2000, the EFTA Court found that the EEA Joint Committee Statement from 1995 did not allow for such stricter rules while the Statement from 1999 did allow for such rules. The Judgment is available at the above mentioned web site.

The request from the Labour Court of Norway concerns the municipal pension scheme ('Kommunernes Landspensjonskasse') and raises quite a number of questions which may be summarised to the effect

whether the scheme is caught by the EEA provisions on competition, Articles 53 and 54 of the EEA Agreement. The Case is still pending before the EFTA Court.

As concerns the direct actions brought by the Authority, the first one, Case E-3/00, concerns the question whether **Norway** is in violation of the EEA provisions on free movement of goods by refusing import into Norway of fortified cereals. The fortification in question is allowed in all other EEA States and as the Authority considered that Norway had not been able to justify the refusal of import on grounds of public health, it brought the case before the EFTA Court in April 2000. The Case is still pending before the EFTA Court.

The second direct action brought by the Authority, Case E-9/00, concerns mainly the question whether **Norway** is in violation of the EEA provisions on free movement of goods by allowing beer with a maximum alcohol content of 4.75% by volume, mostly produced domestically, to be in free sale while other alcoholic beverages with the same alcohol content, mostly imported, are to be sold in the Wine Monopoly ('Vinmopolet'). The Authority considered that such a general measure amounted to discrimination that could not be justified and therefore, it brought the case before the EFTA Court in December 2000. The Case is still pending before the EFTA Court.

Finally, it shall be observed that on 22 June 2000, the EFTA Court delivered its Judgment in a direct action that the Authority had brought against **Norway** in December 1999, Case E-2/99. The Authority had brought the action because it considered that as concerns the seafaring profession, Norway had not fully complied with its obligations under the *Directive on the second general system for the recognition of professional education* (92/51/EEC). The Directive is referred to in Annex VII to the EEA Agreement. In its Judgment the EFTA Court upheld the Authority's plea. The Judgment is available at the above mentioned web site.

7.2 CASES BEFORE THE EUROPEAN COURT OF JUSTICE


During the year 2000, the Authority lodged observations in six cases before the European Court of Justice. All six cases follow requests from national courts asking the Court of Justice to interpret provisions of Community law which are identical in substance to EEA provisions. All the six cases are still pending before the Court of Justice. The six cases are:



Legal and Executive Affairs:

Behind from left to right:
Elisabethann Wright,
Dóra Sif Tynes,
Michael Sanchez Rydelski,
Matthildur Steinsdóttir

In front from left to right:
Lorraine Deakin,
Director Peter Dyrberg,
Bjarnveig Eiríksdóttir



Case C-390/99 raises in essence the question whether a registration requirement for economic operators of digital television services run contrary to the EC provisions on free movement of goods and services as well as whether such a requirement should be notified under the *Directive on notification of technical regulations* (83/189/EEC).

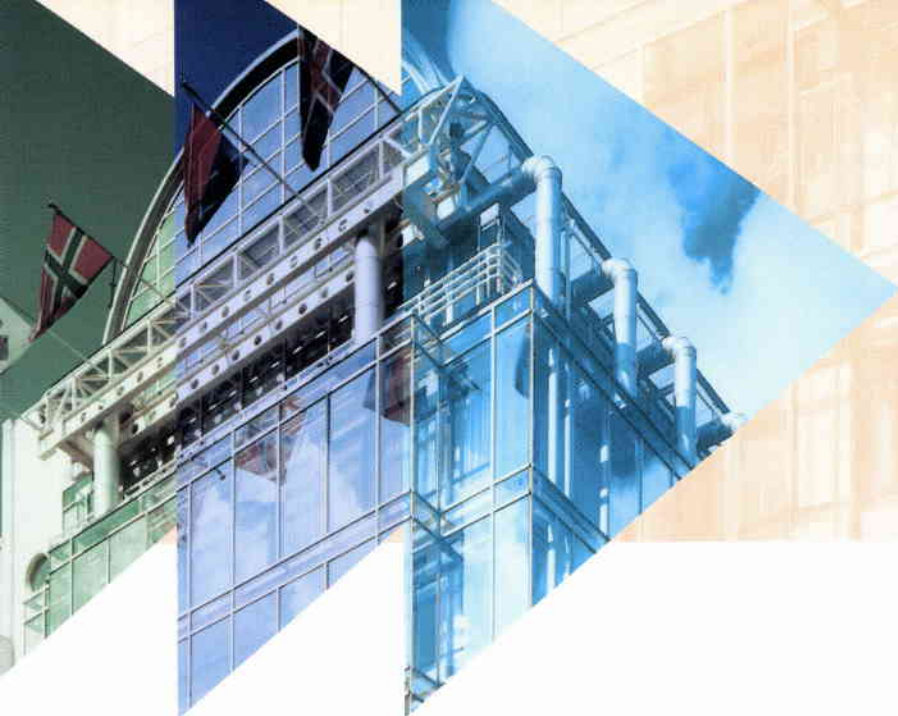
Case C-410/99 raises in essence the question whether companies, legally incorporated in one EEA State, when wishing to operate in another EEA State, may be submitted to requirements in that last State which practically amount to a new incorporation.

Joined Cases C-414-416/99 raise in essence the question what shall be considered to be consent under the EEA rule that a trade mark owner's consent to marketing in the EEA of his products, leads to exhaustion of the trade mark rights.

Case C-109/00 raises in essence the question whether it is admissible under EEA law to dismiss a pregnant worker on the ground that she was taken on for a temporary position and she cannot perform her job for a significant portion of time of the contracted period.

Case C-136/00 raises the question whether it is admissible in relation to the freedom to provide services that there is a right to deduct tax for insurance contributions to domestic companies while there is none as concerns insurance contributions to companies in other EEA States.

Case C-208/00 raises the question whether it is admissible that a company, legally incorporated in one EEA State, may be barred from suing a contractor in another EEA State on the ground that the company has transferred its headquarters to this last State and therefore it should be incorporated in this last State.



Annex 1 | The EFTA States Iceland, Liechtenstein and Norway

Facts and Figures⁽¹⁾

	ICELAND	LIECHTENSTEIN	NORWAY
NAME OF STATE	REPUBLIC OF ICELAND	PRINCIPALITY OF LIECHTENSTEIN	KINGDOM OF NORWAY
SIZE IN KM ²	103 000	160	324 000
FOREST (%) OF TOTAL AREA	0.3	34.8	37
WATER (%)	2.7	-	4.6
CULTIVATED LAND (%)	1.3	24.3	3.2
1.1.2000 - POPULATION	279 049	32 426	4 478 497
1.1.2000 - FOREIGN RESIDENTS (% OF POP.)	2,6	34,3	4,0
1.1.2000 - POPULATION DENSITY (INHAB./KM)	2.7	203	14
GROSS DOMESTIC PRODUCT IN BILLION EURO (1999)	7.8	2,2	143,5
UNEMPLOYMENT RATE (1999)	2.0	1,2	3,2
HEAD OF GOVERNMENT	David Oddsson since 1991	Mario Frick since 1993	Jens Stoltenberg since 2000
NATIONAL HOLIDAY	17 June	15 August	17 May

(1)

Source: Office of the EFTA Statistical Adviser, Luxembourg

Division of Responsibilities
Among College Members

KNUT ALMESTAD (PRESIDENT)	HANNES HAFSTEIN	BERND HAMMERMANN
General policies	Free movement of goods (incl. Technical barriers to trade, other trade matters, veterinary and phytosanitary matters)	Free movement of persons
Co-ordination		Social security
External relation		Mutual recognition of diplomas
Administration	Public procurement	Right of establishment
Legal & Executive Affairs		Financial services
State aid and monopolies	Competition	Audiovisual, telecommunication and postal services
		Transport
		Capital movements
		Social policies
		Consumer protection
		Environment
		Company law

College

GOODS DIRECTORATE	PERSONS, SERVICES AND CAPITAL MOVEMENTS DIRECTORATE	COMPETITION AND STATE AID DIRECTORATE	LEGAL & EXECUTIVE AFFAIRS	ADMINISTRATION
GENERAL TRADE PROVISIONS, including: <ul style="list-style-type: none">- quantitative restrictions and measures having equivalent effect- discriminatory taxation	FREE MOVEMENT OF PERSONS, including: <ul style="list-style-type: none">- free movement of workers- mutual recognition of professional qualifications- right of establishment- social security	COMPETITION RULES APPLICABLE TO ENTERPRISES <ul style="list-style-type: none">- prohibition of cartels- prohibition of abuse of dominant position- control of concentrations	REPRESENTING THE AUTHORITY IN COURT PROCEEDINGS	HUMAN RESOURCES
HARMONISING DIRECTIVES, i.a. in the fields of: <ul style="list-style-type: none">- motor vehicles- foodstuffs- pharmaceuticals- chemicals- fertilisers- construction products- toys- product safety including information procedures	FREE MOVEMENT OF SERVICES, including: <ul style="list-style-type: none">- financial services- banking- securities trading- insurance- audiovisual, telecommunication and postal services- transport	STATE AID <ul style="list-style-type: none">- review of existing aid- examination of new aid measures	FORMAL PART OF INFRINGEMENT PROCEEDINGS	BUDGET PLANNING
VETERINARY AND PHYTOSANITARY MATTERS	CAPITAL MOVEMENTS	MONOPOLIES	ADVICE ON LEGAL QUESTIONS	FINANCIAL CONTROL
INTELLECTUAL PROPERTY	SOCIAL POLICIES	RULES ON PUBLIC UNDERTAKINGS	JURIST LINGUIST SERVICES	INFORMATION TECHNOLOGY
ENERGY	CONSUMER PROTECTION		MEETINGS OF THE COLLEGE	STAFF SOCIAL SECURITY
PUBLIC PROCUREMENT	ENVIRONMENT		ORAL, WRITTEN AND DELEGATION PROCEDURES	OFFICE FACILITIES
	COMPANY LAW		FOLLOW-UP OF COLLEGE DECISIONS	PROCUREMENT
			PUBLICATION	REGISTRY
			LIBRARY	
			PRESS AND INFORMATION	
			VISITOR GROUPS	

Implementation Status of Directives in Various Sectors

Explanatory Note

In this Annex the implementation status of the Directives which are part of the EEA Agreement in the various sectors is presented in tabular form. Reflecting the relevant entries made by the Authority's services in the Acquis Implementation Database (AIDA), two basic types of information are given in the tables.


SHADINGS

The Authority's understanding of the actual implementation situation is illustrated by the different shadings in the tables. The principles according to which the shadings appear are the following:

- (a) The fact that the respective field is left blank (white), means that the EFTA State concerned has no duty to implement the Directive in question.

No duty to implement: 

- (b) A field with a light shading means that the EFTA State in question has notified the Directive concerned as fully implemented, and also submitted to the Authority the legal texts of all the notified national measures.

Full implementation notified: 

It should be noted that this shading will not appear in the table, even if an EFTA State has notified full implementation as described above, if the Authority or its services, after a preliminary examination of the legal texts received, or upon a detailed conformity assessment, are of the opinion that the Directive has not actually been fully implemented. (In that case one of the two shadings discussed below will appear, depending on whether implementation is considered to be only partial, or whether the measures notified by the EFTA State are not actually deemed to implement any provisions of the Directive in question.)

- (c) When a field has a medium shading it means either that the EFTA State in question has notified the Directive concerned as only partially implemented, or that the Authority or its services have come to the same conclusion following a preliminary examination of the notified legal texts or of a detailed conformity assessment.

implementation: 

- (d) A dark shading of the field means either that the Authority has received no notification relative to the Directive concerned from the EFTA State or, that following a preliminary examination of the legal texts that have been notified or of a detailed conformity assessment of the measures contained in the texts, the Authority or its services have concluded that no national measures exist in that State that would actually transpose any of the provisions of the Directive.

Non-implementation: 

ABBREVIATIONS

When appropriate, certain additional information is given in the form of abbreviations which appear in the respective fields.

Thus, the abbreviation "NNN" in a blank field means that, due to the circumstances prevailing in the EFTA State in question, no implementing measures are considered necessary for the time being. For instance, in the sector of mutual recognition of diplomas and professional qualifications, no implementing measures are necessary either in Iceland or in Norway with respect to the Directives relative to the film industry, since in those EFTA States, the respective activities are liberalised, and therefore no restrictions exist in the sense of the Directives. Consequently, the value "NNN" has been entered in the AIDA for both Iceland and Norway for all the four Directives concerned, and the abbreviation appears in the respective fields of the table.

The second abbreviation that may appear in a blank field is "TRP". This means that the EFTA State in question enjoys a transitional period for the implementation of the whole Directive concerned.










The third abbreviation that may appear in a blank field is "PWH". This means that the EFTA State in question enjoys a derogation for the implementation of the whole Directive concerned.

The fourth abbreviation that may appear in a blank field is "SPA". This stands for "specific adaptation" and means that the EFTA State in question has a right to apply certain provisions of an act in a particular way.

When a Directorate concludes that a Directive has not been properly implemented, it may, instead of proposing to the respective College member that formal proceedings be initiated, decide to send an informal letter to the EFTA State concerned inviting it to adopt the measures necessary to comply with the Directive or, to provide the Authority with information on the actual status of implementation. Whenever this kind of Pre Article 31 letter is sent, the value "PRE" is entered into the AIDA, and the abbreviation appears in the respective field with medium or dark shading.

By the same token, if the Authority has sent a letter of formal notice or a reasoned opinion for non-implementation or partial implementation to the EFTA State, the corresponding value - "LFN" or "RDO", respectively - is entered into the AIDA, and thus also appears in the respective field. The abbreviation "EFC" means that the Authority has referred the case to the EFTA Court.

IMPLEMENTATION STATUS OF DIRECTIVES

						
Control Matters				ISL	LIE	NOR
Vet. checks - intra Com. internal market	Dir.	89/662	Annex I,1,1,1,1		PWH	
Vet. checks - intra Com. internal market	Dir.	92/67	Annex I,1,1,1,1		PWH	
Vet. and zoo checks -intra Com. trade live animals	Dir.	90/425	Annex I,1,1,1,2		PWH	
Vet. and zoo checks -intra Com. trade live animals	Dir.	92/60	Annex I,1,1,1,2		PWH	
Mutual assistance	Dir.	89/608	Annex I,1,1,1,3	PWH	PWH	
Third country checks	Dir.	97/78	Annex I,1,1,1,4		PWH	
Vet. checks - animals third countries	Dir.	91/496	Annex I,1,1,1,5		PWH	
Vet. checks on animals third countries	Dir.	96/43	Annex I,1,1,1,5		PWH	
Identification/reg. of animals	Dir.	92/102	Annex I,1,1,1,7	PWH	PWH	
Financing of vet. inspections and control	Dir.	85/73	Annex I,1,1,1,8	LFN	PWH	LFN
Financing veterinary inspections	Dir.	97/79	Annex I,1,1,1,8		PWH	
Certification of animal products	Dir.	96/93	Annex I,1,1,1,9	PWH	PWH	
						
Zootechnics				ISL	LIE	NOR
Zootechnics - pure breed bovines	Dir.	77/504	Annex I,1,2,1,1	PWH	PWH	
Zootechnics - pure breed bovines	Dir.	79/268	Annex I,1,2,1,1	PWH	PWH	
Zootechnics - pure breed bovines	Dir.	85/586	Annex I,1,2,1,1	PWH	PWH	
Zootechnics - pure breed bovines	Dir.	94/28	Annex I,1,2,1,1	PWH	PWH	
Zootechnical standards for breeding pigs	Dir.	88/661	Annex I,1,2,1,2	PWH	PWH	
Zootechnics - pure breeding sheep and goats	Dir.	89/361	Annex I,1,2,1,3	PWH	PWH	
Zootechnics - intra Com. trade equidae	Dir.	90/427	Annex I,1,2,1,4	PWH	PWH	
Zootechnics - equine competitions	Dir.	90/428	Annex I,1,2,1,5	PWH	PWH	
Zootechnics - pure breed animals	Dir.	91/174	Annex I,1,2,1,6	PWH	PWH	
Acceptance of pure bred bovines for breeding	Dir.	87/328	Annex I,1,2,2,5	PWH	PWH	
Zootechnics - pure breeding pigs	Dir.	90/118	Annex I,1,2,2,14	PWH	PWH	
Zootechnics - hybrid pigs	Dir.	90/119	Annex I,1,2,2,15	PWH	PWH	
						
Control measures - notification of disease				ISL	LIE	NOR
Control of foot and mouth disease (FMD)	Dir.	85/511	Annex I,1,3,1,1	PWH	PWH	
Control of foot and mouth disease (FMD)	Dir.	90/423	Annex I,1,3,1,2	PWH	PWH	
Control of classical swine fever (CSF)	Dir.	80/1274	Annex I,1,3,1,3	PWH	PWH	
Control of classical swine fever (CSF)	Dir.	80/217	Annex I,1,3,1,3	PWH	PWH	
Control of classical swine fever (CSF)	Dir.	81/476	Annex I,1,3,1,3	PWH	PWH	
Control of classical swine fever (CSF)	Dir.	84/645	Annex I,1,3,1,3	PWH	PWH	
Control of classical swine fever (CSF)	Dir.	87/486	Annex I,1,3,1,3	PWH	PWH	
Control of classical swine fever (CSF)	Dir.	91/685	Annex I,1,3,1,3	PWH	PWH	

Meaning of shades:

No duty to implement:

Partial implementation:

Full implementation notified*:

Non-implementation:

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IMPLEMENTATION STATUS OF DIRECTIVES

						
				ISL	LIE	NOR
Control measures - notification of disease (cont.)						
Control of African horse sickness (AHS)	Dir.	92/35	Annex I, I, 3, 1, 4	PWH	PWH	
Control Avian influenza	Dir.	92/40	Annex I, I, 3, 1, 5	PWH	PWH	
Control of Newcastle disease	Dir.	92/66	Annex I, I, 3, 1, 6	PWH	PWH	
Control of fish diseases	Dir.	93/53	Annex I, I, 3, 1, 7		PWH	
Control of diseases affecting bivalve molluscs	Dir.	95/70	Annex I, I, 3, 1, 8	PWH	PWH	
Control of SVD and certain other animal diseases	Dir.	92/119	Annex I, I, 3, 1, 9	PWH	PWH	
Animal disease notification	Dir.	82/894	Annex I, I, 3, 1, 10	PWH	PWH	NNN
						
Animal Health: Live Animals				ISL	LIE	NOR
Animal health-intra Com. Trade in bovine and swine	Dir.	64/432	Annex I, I, 4, 1, 1	PWH	PWH	
Animal health – intra Com. Trade bovine and swine	Dir.	97/12	Annex I, I, 4, 1, 1	PWH	PWH	
Animal health – intra Com. Trade bovine and swine	Dir.	98/46	Annex I, I, 4, 1, 1	PWH	PWH	
Animal health – intra Com. Trade bovine and swine	Dir.	98/99	Annex I, I, 4, 1, 1	PWH	PWH	
Animal health – intra Com. Trade sheep and goats	Dir.	91/68	Annex I, I, 4, 1, 2	PWH	PWH	
Animal health – intra Com. Movement of equidae	Dir.	90/426	Annex I, I, 4, 1, 3	PWH	PWH	
Animal health – intra Com. Movement of equidae	Dir.	92/36	Annex I, I, 4, 1, 3	PWH	PWH	
Animal health – intra Com. Trade poultry	Dir.	90/539	Annex I, I, 4, 1, 4	PWH	PWH	
Animal health – intra Com. Trade poultry	Dir.	93/120	Annex I, I, 4, 1, 4	PWH	PWH	
Animal health – placing on the market aquaculture	Dir.	91/67	Annex I, I, 4, 1, 5		PWH	
Animal health – placing on the market aquaculture	Dir.	93/54	Annex I, I, 4, 1, 5		PWH	
Animal health – placing on the market aquaculture	Dir.	95/22	Annex I, I, 4, 1, 5		PWH	
Animal health – placing on the market aquaculture	Dir.	98/45	Annex I, I, 4, 1, 5		PWH	
Animal health – intra Com. Trade in bovine embryos	Dir.	89/556	Annex I, I, 4, 1, 6	PWH	PWH	
Animal health – intra Com. Trade bovine embryos	Dir.	93/52	Annex I, I, 4, 1, 6	PWH	PWH	
Animal health – intra Com. Trade bovine semen	Dir.	88/407	Annex I, I, 4, 1, 7	PWH	PWH	
Animal health – intra Com. Trade bovine semen	Dir.	90/120	Annex I, I, 4, 1, 7	PWH	PWH	
Animal health – intra Com. Trade bovine semen	Dir.	93/60	Annex I, I, 4, 1, 7	PWH	PWH	
Animal health – intra Com. Trade porcine semen	Dir.	90/429	Annex I, I, 4, 1, 8	PWH	PWH	
Balai live animals	Dir.	92/65	Annex I, I, 4, 1, 9	PWH	PWH	
						
Animal Health: Animal Products				ISL	LIE	NOR
Animal health - intra Com. trade in fresh meat	Dir.	82/893	Annex I, I, 5, 1, 1	PWH	PWH	
Animal health - intra Com. trade in fresh meat	Dir.	83/646	Annex I, I, 5, 1, 1	PWH	PWH	
Animal health - intra Com. trade in fresh meat	Dir.	84/336	Annex I, I, 5, 1, 1	PWH	PWH	
Animal health - intra Com. trade in fresh meat	Dir.	84/643	Annex I, I, 5, 1, 1	PWH	PWH	
Animal health - intra Com. trade in fresh meat	Dir.	87/489	Annex I, I, 5, 1, 1	PWH	PWH	

Animal Health: Animal Products (cont.)

						
				ISL	LIE	NOR
Animal health on intra Com trade fresh meat	Dir.	72/461	Annex I,1,5,1,1	PWH	PWH	
Animal health - intra Com. trade fresh meat	Dir.	77/98	Annex I,1,5,1,1	PWH	PWH	
Animal health - intra Com. trade fresh meat	Dir.	80/1099	Annex I,1,5,1,1	PWH	PWH	
Animal health - intra Com. trade fresh meat	Dir.	80/213	Annex I,1,5,1,1	PWH	PWH	
Animal health - intra Com. trade fresh meat	Dir.	85/322	Annex I,1,5,1,1	PWH	PWH	
Animal health - intra Com. trade fresh meat	Dir.	87/64	Annex I,1,5,1,1	PWH	PWH	
Animal health - intra Com. trade fresh meat	Dir.	91/266	Annex I,1,5,1,1	PWH	PWH	
Animal health - intra Com. trade fresh meat	Dir.	91/687	Annex I,1,5,1,1	PWH	PWH	
Animal health - intra Com. trade poultry meat	Dir.	91/494	Annex I,1,5,1,2	PWH	PWH	
Animal health - poultry meat	Dir.	92/116	Annex I,1,5,1,2	PWH	PWH	
Animal health - intra Com. trade poultry meat	Dir.	93/121	Annex I,1,5,1,2	PWH	PWH	
Animal health - meat products	Dir.	80/1100	Annex I,1,5,1,3	PWH	PWH	
Animal health - meat products	Dir.	80/215	Annex I,1,5,1,3	PWH	PWH	
Animal health - meat products	Dir.	85/321	Annex I,1,5,1,3	PWH	PWH	
Animal health - meat products	Dir.	87/491	Annex I,1,5,1,3	PWH	PWH	
Animal health - meat products	Dir.	88/660	Annex I,1,5,1,3	PWH	PWH	
Animal health - milk and milk-based products	Dir.	92/46	Annex I,1,5,1,4	PWH	PWH	
Animal health - milk and milk-based products	Dir.	94/71	Annex I,1,5,1,4	PWH	PWH	
Animal health - rabbit meat and farmed game meat	Dir.	91/495	Annex I,1,5,1,5	PWH	PWH	
Animal health - wild game meat	Dir.	92/45	Annex I,1,5,1,6	PWH	PWH	
Animal health - products of other animals	Dir.	92/118	Annex I,1,5,1,7		PWH	
Animal health - products of other animals	Dir.	96/90	Annex I,1,5,1,7	PWH	PWH	

Public Health

						
				ISL	LIE	NOR
Public health – fresh meat	Dir.	64/433	Annex I,1,6,1,1	PWH	PWH	
Public health – fresh meat	Dir.	91/497	Annex I,1,6,1,1	PWH	PWH	
Public health – fresh meat	Dir.	92/5	Annex I,1,6,1,1	PWH	PWH	
Public health – fresh meat	Dir.	95/23	Annex I,1,6,1,1	PWH	PWH	
Public health – fresh poultry meat	Dir.	71/118	Annex I,1,6,1,2	PWH	PWH	
Public health – fresh meat derogations	Dir.	91/498	Annex I,1,6,1,3	PWH	PWH	
Public health – meat products	Dir.	77/99	Annex I,1,6,1,4	PWH	PWH	
Public health – meat products	Dir.	85/327	Annex I,1,6,1,4	PWH	PWH	
Public health – meat products	Dir.	95/68	Annex I,1,6,1,4	PWH	PWH	
Public health – meat products	Dir.	97/76	Annex I,1,6,1,4	PWH	PWH	
Public health – minced meat	Dir.	94/65	Annex I,1,6,1,6	PWH	PWH	
Public health – egg products	Dir.	89/437	Annex I,1,6,1,7	PWH	PWH	
Public health – egg products	Dir.	91/684	Annex I,1,6,1,7	PWH	PWH	

Meaning of shades:

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IMPLEMENTATION STATUS OF DIRECTIVES

						
				ISL	LIE	NOR
Public Health (cont.)						
Public health – fishery products	Dir.	91/493	Annex I,1,6,1,8		PWH	
Public health – fishery products	Dir.	95/71	Annex I,1,6,1,8		PWH	
Public health – fishery products – vessels	Dir.	92/48	Annex I,1,6,1,9		PWH	
Public health – molluscs – placing on the market	Dir.	91/492	Annex I,1,6,1,10		PWH	
Public health – placing on the market of molluscs	Dir.	97/61	Annex I,1,6,1,10		PWH	
Public health - milk and milk-based products	Dir.	92/47	Annex I,1,6,1,12	PWH	PWH	
Public health – small percentage meat –derogations	Dir.	83/201	Annex I,1,6,2,1	PWH	PWH	
Public health – derogation-small percentage meat	Dir.	83/577	Annex I,1,6,2,1	PWH	PWH	
Public health – milk hygiene	Dir.	89/362	Annex I,1,6,2,5	PWH	PWH	
Public health – checks on untreated milk	Dir.	89/384	Annex I,1,6,2,6	PWH	PWH	
						
				ISL	LIE	NOR
Measures relating to many sectors						
Hormonal/thyrostatic effects - stockfarming	Dir.	96/22	Annex I,1,7,1,1	PWH	PWH	LFN
Residues in live animals and products	Dir.	96/23	Annex I,1,7,1,2	PWH	PWH	RDO
Zoonoses	Dir.	92/117	Annex I,1,7,1,8	PWH	PWH	
Zoonoses	Dir.	97/22	Annex I,1,7,1,8	PWH	PWH	
Animal waste, pathogens	Dir.	90/667	Annex I,1,7,1,9		PWH	
Medicated feedingstuffs	Dir.	90/167	Annex I,1,7,1,10	PWH	PWH	
Hormones in animals	Dir.	88/299	Annex I,1,7,2,1	PWH	PWH	
						
				ISL	LIE	NOR
Import from third countries						
Import of meat from third countries	Dir.	72/462	Annex I,1,8,1,1	PWH	PWH	
Import of meat from third countries	Dir.	83/91	Annex I,1,8,1,1	PWH	PWH	
Import of meat from third countries	Dir.	88/289	Annex I,1,8,1,1	PWH	PWH	
Import of meat from third countries	Dir.	88/657	Annex I,1,8,1,1	PWH	PWH	
Import of meat from third countries	Dir.	89/227	Annex I,1,8,1,1	PWH	PWH	
Import of meat from third countries	Dir.	91/688	Annex I,1,8,1,1	PWH	PWH	
Import of meat from third countries	Dir.	91/69	Annex I,1,8,1,1	PWH	PWH	
Import of meat from third countries	Dir.	96/91	Annex I,1,8,1,1	PWH	PWH	
Trichina fresh meat from third countries	Dir.	77/96	Annex I,1,8,1,17	PWH	PWH	
Trichina fresh meat from third countries	Dir.	84/319	Annex I,1,8,1,17	PWH	PWH	
Trichina fresh meat from third countries	Dir.	89/321	Annex I,1,8,1,17	PWH	PWH	
Trichina fresh meat from third countries	Dir.	94/59	Annex I,1,8,1,17	PWH	PWH	

						
Animal Welfare				ISL	LIE	NOR
Protection of animals during transport	Dir.	91/628	Annex I, I, 9, 1, 1	PWH	PWH	
Protection of animals during transport	Dir.	95/29	Annex I, I, 9, 1, 1	PWH	PWH	
Protection of animals during slaughter or killing	Dir.	93/119	Annex I, I, 9, 1, 2	PWH	PWH	
Protection of laying hens kept in battery cages	Dir.	88/166	Annex I, I, 9, 1, 3	PWH	PWH	
Protection of calves	Dir.	91/629	Annex I, I, 9, 1, 4	PWH	PWH	
Protection of calves	Dir.	97/2	Annex I, I, 9, 1, 4	PWH	PWH	
Protection of pigs	Dir.	91/630	Annex I, I, 9, 1, 5	PWH	PWH	
Protection of animals kept for farming purposes	Dir.	98/58	Annex I, I, 9, 1, 6	PWH	PWH	
Feedingstuffs						
Additives	Dir.	1999/20	Annex I, II, 1			
Animal protein in feed	Dir.	1999/61	Annex I, II, 1			
Additives	Dir.	70/524	Annex I, II, 1			
Additives	Dir.	73/103	Annex I, II, 1			
Additives	Dir.	84/587	Annex I, II, 1			
Additives	Dir.	91/248	Annex I, II, 1			
Additives	Dir.	91/249	Annex I, II, 1			
Additives	Dir.	91/336	Annex I, II, 1			
Additives	Dir.	91/508	Annex I, II, 1			
Additives	Dir.	91/620	Annex I, II, 1			
Additives	Dir.	92/113	Annex I, II, 1			
Additives	Dir.	92/64	Annex I, II, 1			
Additives	Dir.	92/99	Annex I, II, 1			
Additives	Dir.	93/107	Annex I, II, 1			
Additives	Dir.	93/114	Annex I, II, 1			
Additives	Dir.	93/27	Annex I, II, 1			
Additives	Dir.	93/55	Annex I, II, 1			
Additives	Dir.	94/17	Annex I, II, 1			
Additives	Dir.	94/41	Annex I, II, 1			
Additives	Dir.	94/50	Annex I, II, 1			
Additives	Dir.	94/77	Annex I, II, 1			
Additives	Dir.	95/37	Annex I, II, 1			
Additives	Dir.	95/55	Annex I, II, 1	LFN		
Additives	Dir.	96/51	Annex I, II, 1	LFN		
Additives	Dir.	96/66	Annex I, II, 1	LFN		
Additives	Dir.	96/7	Annex I, II, 1	LFN		
Additives	Dir.	97/6	Annex I, II, 1	LFN		

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				ISL	LIE	NOR
Feedingstuffs (cont.)						
Additives	Dir.	97/72	Annex I,II,1	LFN		
Additives	Dir.	98/19	Annex I,II,1			
Additives	Dir.	98/92	Annex I,II,1			
Guidelines for additives	Dir.	87/153	Annex I,II,2			
Guidelines for additives	Dir.	94/40	Annex I,II,2			
Guidelines for additives	Dir.	95/11	Annex I,II,2			
Enzymes	Dir.	93/113	Annex I,II,3			
Enzymes in animal nutrition	Dir.	97/40	Annex I,II,3	LFN		
Compound feedingstuffs	Dir.	79/373	Annex I,II,5			
Compound feedingstuffs	Dir.	80/509	Annex I,II,5			
Compound feedingstuffs	Dir.	80/695	Annex I,II,5			
Compound feedingstuffs	Dir.	82/957	Annex I,II,5			
Compound feedingstuffs	Dir.	86/354	Annex I,II,5			
Compound feedingstuffs	Dir.	87/235	Annex I,II,5			
Compound feedingstuffs	Dir.	90/44	Annex I,II,5			
Compound feedingstuffs	Dir.	91/681	Annex I,II,5			
Marketing, feedingstuffs	Dir.	96/24	Annex I,II,5	LFN		
BSE in feedingstuffs	Dir.	97/47	Annex I,II,5	LFN		
Marketing of feed	Dir.	98/87	Annex I,II,5			
Feedingstuffs for nutritional purpose	Dir.	93/74	Annex I,II,8			
List of uses for particular nutritional purpose	Dir.	94/39	Annex I,II,9			
List of uses for particular nutritional purpose	Dir.	95/9	Annex I,II,9			
Energy value of dog and cat food	Dir.	1999/78	Annex I,II,10			
Energy value of dog and cat food	Dir.	95/10	Annex I,II,10			
Compound feedingstuffs – package	Dir.	80/511	Annex I,II,11			
Feed ingredients	Dir.	98/67	Annex I,II,11			
Labelling of compound feedingstuffs	Dir.	82/475	Annex I,II,12			
Labelling of compound feedingstuffs	Dir.	91/334	Annex I,II,12			
Energy value – compound poultryfeed	Dir.	86/174	Annex I,II,13			
Labelling of compound feedingstuffs	Dir.	91/357	Annex I,II,14			
circulation of feed materials	Dir.	96/25	Annex I,II,14a	LFN		
Bioproteins	Dir.	82/471	Annex I,II,15			
bioproteins	Dir.	85/509	Annex I,II,15			
Bioprotein	Dir.	86/530	Annex I,II,15			
Bioproteins	Dir.	88/485	Annex I,II,15			
Bioproteins	Dir.	89/520	Annex I,II,15			
Bioproteins	Dir.	90/439	Annex I,II,15			
Bioproteins	Dir.	93/26	Annex I,II,15			

Feedingstuffs (cont.)						
				ISL	LIE	NOR
Bioproteins	Dir.	93/56	Annex I,II,15			
Bioproteins	Dir.	95/33	Annex I,II,15			
Guidelines- bioproteins	Dir.	83/228	Annex I,II,16			
Methods of sampling and analysis	Dir.	70/373	Annex I,II,18			
Methods of sampling and analysis	Dir.	72/275	Annex I,II,18			
First Com. Dir. – methods of analysis	Dir.	71/250	Annex I,II,19			
Methods of analysis	Dir.	81/680	Annex I,II,19			
Feed additives	Dir.	98/54	Annex I,II,19			
Second Com. Dir. – methods of analysis	Dir.	71/393	Annex I,II,20			
Methods of analysis	Dir.	73/47	Annex I,II,20			
Methods of analysis	Dir.	84/4	Annex I,II,20			
Methods of analysis	Dir.	1999/79	Annex I,II,21			
Third Com. Dir. – methods of analysis	Dir.	72/199	Annex I,II,21			
Methods of analysis	Dir.	93/28	Annex I,II,21			
Fourth Com. Dir. – methods of analysis	Dir.	73/46	Annex I,II,22			
Methods of analysis	Dir.	92/89	Annex I,II,22			
First Com. Dir. – methods of sampling	Dir.	76/371	Annex I,II,25			
Seventh Com. Dir. – methods of analysis	Dir.	76/372	Annex I,II,26			
Methods of analysis	Dir.	92/95	Annex I,II,26			
Methods of analysis	Dir.	94/14	Annex I,II,26			
Eighth Com. Dir. – methods of analysis	Dir.	78/633	Annex I,II,27			
Ninth Com. Dir. – methods of analysis	Dir.	81/715	Annex I,II,28			
Tenth Com. Dir. – methods of analysis	Dir.	84/425	Annex I,II,29			
Analysis and control of feedingstuffs	Dir.	93/70	Annex I,II,30			
Analysis and control of feedingstuffs	Dir.	93/117	Annex I,II,31			
Inspections of feed establishments	Dir.	95/53	Annex I,II,31a	LFN		
Imports of feed	Dir.	98/68	Annex I,II,31aa			
Establishments- approving, registering	Dir.	95/69	Annex I,II,31b	LFN		
Approving feed establishments	Dir.	98/51	Annex I,II,31ba			
Feed, analysis	Dir.	98/64	Annex I,II,31c			
Animal origin ingredients in feed	Dir.	98/88	Annex I,II,31d			
Feed additives, analysis	Dir.	1999/27	Annex I,II,31f			
Methods of analysis	Dir.	1999/76	Annex I,II,31g			
Undesirables in feed	Dir.	1999/29	Annex I,II,32			

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			ISL	LIE	NOR
Seeds					
Marketing of beet seed	Dir.	66/400 Annex I,III,1,1			
Marketing of fodder plant seed	Dir.	66/401 Annex I,III,1,2			
Marketing of cereal seed	Dir.	66/402 Annex I,III,1,3			
Marketing of seed oil and fibre plants	Dir.	69/208 Annex I,III,1,4			
Common catalogue -agricultural plants	Dir.	70/457 Annex I,III,1,5			
Marketing of vegetable seed	Dir.	70/458 Annex I,III,1,6			
Conditions for inspecting vegetable varieties	Dir.	72/168 Annex I,III,1,7			
Conditions for examining agricultural varieties	Dir.	72/180 Annex I,III,1,8			
Avena fatua in fodder plant and cereal seed	Dir.	74/268 Annex I,III,1,9			
Limiting the marketing of Poa pratensis	Dir.	75/502 Annex I,III,2,1			
Marketing of seed as "basic seed"	Dir.	86/109 Annex I,III,2,4			
Crop isolation conditions - spinach etc.	Dir.	89/14 Annex I,III,2,6			
					
			ISL	LIE	NOR
Motor Vehicles					
Type approval of motor vehicles and their trailers	Dir.	70/156 Annex II,1,1			
Type approval of motor vehicles (new Directive)	Dir.	92/53 Annex II,1,1			
Type approval of motor vehicles	Dir.	93/81 Annex II,1,1			
Adapting to technical progress 70/156	Dir.	98/14 Annex II,1,1			
Adapting to technical progress Directive 70/156	Dir.	98/91 Annex II,1,1			
Adapting to technical progress Directive 70/157	Dir.	1999/101 Annex II,1,2			
Permissible sound level and exhaust system	Dir.	70/157 Annex II,1,2			
Permissible sound level and exhaust system	Dir.	92/97 Annex II,1,2			
Adaptation of sound level and exhaust system	Dir.	96/20 Annex II,1,2			
Adapting to technical progress Directive 70/220	Dir.	1999/102 Annex II,1,3			
Emissions from motor vehicles	Dir.	70/220 Annex II,1,3			
Emissions from motor vehicles	Dir.	93/59 Annex II,1,3			
Amendment to Dir. 70/220 emissions	Dir.	94/12 Annex II,1,3			
Adapting to technical progress Dir. 70/220	Dir.	96/44 Annex II,1,3			
Amending Dir. 70/220 emissions from motor vehicles	Dir.	96/69 Annex II,1,3			
Air pollution, amending 70/220	Dir.	98/69 Annex II,1,3			
Amending 70/220, Air pollution	Dir.	98/77 Annex II,1,3			
Liquid fuel tanks and rear protective devices	Dir.	70/221 Annex II,1,4			
Adapting to technical progress Dir. 70/221	Dir.	97/19 Annex II,1,4			
Space for rear registration plates	Dir.	70/222 Annex II,1,5			
Adapting to technical progress Directive 70/311	Dir.	1999/7 Annex II,1,6			
Steering equipment for motor vehicles & trailers	Dir.	70/311 Annex II,1,6			
Steering equipment for motor vehicles & trailers	Dir.	92/62 Annex II,1,6			

Motor Vehicles (cont.)

						
				ISL	LIE	NOR
Doors of motor vehicles & trailers	Dir.	70/387	Annex II, I, 7			
Adapting to technical progress Directive 70/387	Dir.	98/90	Annex II, I, 7			
Audible warning devices for motor vehicles	Dir.	70/388	Annex II, I, 8			
Rear-view mirrors of motor vehicles	Dir.	71/127	Annex II, I, 9			
Braking devices of cert. categ. of mot.veh.&trail.	Dir.	71/320	Annex II, I, 10			
Braking devices	Dir.	91/422	Annex II, I, 10			
Adapting to technical progress Dir. 71/320	Dir.	98/12	Annex II, I, 10			
Radio interference by engines of motor vehicles	Dir.	72/245	Annex II, I, 11			
Adaptation of radio interference	Dir.	95/54	Annex II, I, 11			
Emissions of pollutants from diesel engines	Dir.	72/306	Annex II, I, 12			
Adapting to technical progress Dir. 72/306	Dir.	97/20	Annex II, I, 12			
Interior fittings of motor vehicles	Dir.	74/60	Annex II, I, 13			
Devices to prevent unauthorized use of motor veh.	Dir.	74/61	Annex II, I, 14			
Adaptation of devices to prevent unauthorized use	Dir.	95/56	Annex II, I, 14			
Interior fittings of motor vehicles (steering)	Dir.	74/297	Annex II, I, 15			
Steering wheel and column in an impact	Dir.	91/662	Annex II, I, 15			
Interior fittings of motor vehicles (seat & anch.)	Dir.	74/408	Annex II, I, 16			
Adapting to technical progress Dir. 74/408	Dir.	96/37	Annex II, I, 16			
External projections of motor vehicles	Dir.	74/483	Annex II, I, 17			
Reverse and speedometer equipment of motor veh.	Dir.	75/443	Annex II, I, 18			
Adapting to technical progress Dir. 75/443	Dir.	97/39	Annex II, I, 18			
Statutory plates and inscriptions for mot.veh.&tr.	Dir.	76/114	Annex II, I, 19			
Anchorage for motor-vehicle safety belts	Dir.	76/115	Annex II, I, 20			
Anchorage for safety belts	Dir.	90/629	Annex II, I, 20			
Adapting to technical progress Dir. 76/115	Dir.	96/38	Annex II, I, 20			
Lighting & light-signalling devices on mot.v.&tr.	Dir.	76/756	Annex II, I, 21			
Lighting & light-signalling devices	Dir.	91/663	Annex II, I, 21			
Amending Dir. 76/756 signalling devices	Dir.	97/28	Annex II, I, 21			
Reflex reflectors for motor vehicles & trailers	Dir.	76/757	Annex II, I, 22			
Adapting Directive 76/757	Dir.	97/29	Annex II, I, 22			
End-outline marker lamps etc. for motor veh. & tr.	Dir.	76/758	Annex II, I, 23			
Adapting to technical progress Dir. 76/758	Dir.	97/30	Annex II, I, 23			
Direction indicator lamps for motor vehicles & tr.	Dir.	76/759	Annex II, I, 24			
Rear registration plate lamps for motor veh. & tr.	Dir.	76/760	Annex II, I, 25			
Adapting to technical progress Dir. 76/760	Dir.	97/31	Annex II, I, 25			
Motor-vehicle headlamps (main- and/or dipped-beam)	Dir.	76/761	Annex II, I, 26			
Front fog lamps for motor vehicles	Dir.	76/762	Annex II, I, 27			
Motor-vehicle towing-devices	Dir.	77/389	Annex II, I, 28			

Meaning of shades:

No duty to implement:



Partial implementation:



Full implementation notified*:



Non-implementation:



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IMPLEMENTATION STATUS OF DIRECTIVES

						
Motor Vehicles (cont.)				ISL	LIE	NOR
Adapting Dir. 77/389 regarding towing devices	Dir.	96/64	Annex II,1,28			
Rear fog lamps for motor vehicles & trailers	Dir.	77/538	Annex II,1,29			
Reversing lamps for motor vehicles & trailers	Dir.	77/539	Annex II,1,30			
Adapting to technical progress Dir. 77/539	Dir.	97/32	Annex II,1,30			
Parking lamps for motor vehicles	Dir.	77/540	Annex II,1,31			
Adapting to technical progress Dir. 77/541/EEC	Dir.	2000/3	Annex II,1,32			
Safety belts and restraint systems of motor veh.	Dir.	77/541	Annex II,1,32			
Adapting Dir. 77/541 regarding safety belts	Dir.	96/36	Annex II,1,32			
Field of vision of motor-vehicle drivers	Dir.	77/649	Annex II,1,33			
Field of vision	Dir.	90/630	Annex II,1,33			
Int. fittings of mot.v. (identif. of controls etc)	Dir.	78/316	Annex II,1,34			
Interior fittings (identif. of controls etc.)	Dir.	93/91	Annex II,1,34			
Defrosting and demisting systems of motor vehicles	Dir.	78/317	Annex II,1,35			
Wiper and washer systems of motor vehicles	Dir.	78/318	Annex II,1,36			
Windscreen wiper tech. adaptation Directive	Dir.	94/68	Annex II,1,36			
Heating systems for passenger compartm. of mot .v.	Dir.	78/548	Annex II,1,37			
Wheel guards of motor vehicles	Dir.	78/549	Annex II,1,38			
Wheel guards tech. adaptation Directive	Dir.	94/78	Annex II,1,38			
Head restraints of seats of motor vehicles	Dir.	78/932	Annex II,1,39			
Adapting to technical progress Directive 80/1268	Dir.	1999/100	Annex II,1,42			
Fuel consumption of motor vehicles	Dir.	80/1268	Annex II,1,42			
Fuel consumption	Dir.	93/116	Annex II,1,42			
Adapting to technical progress Directive 80/1269	Dir.	1999/99	Annex II,1,43			
Engine power of motor vehicles	Dir.	80/1269	Annex II,1,43			
Adapting to technical progress Dir. 80/1269	Dir.	97/21	Annex II,1,43			
Amending Directive 88/77	Dir.	1999/96	Annex II,1,44			
Emission of gaseous pollutants from diesel engines	Dir.	88/77	Annex II,1,44			
Emission of gaseous pollutants from diesel engines	Dir.	91/542	Annex II,1,44			
Amending emissions from diesel engines	Dir.	96/1	Annex II,1,44			
Lateral protection of motor vehicles & trailers	Dir.	89/297	Annex II,1,45			
Spray-suppression systems	Dir.	91/226	Annex II,1,45a			
Masses and dimensions of M1	Dir.	92/21	Annex II,1,45b			
Masses and dimensions, technical adaptation	Dir.	95/48	Annex II,1,45b			
Safety glazing and glazing materials	Dir.	92/22	Annex II,1,45c			
Tyres	Dir.	92/23	Annex II,1,45d			
Speed limitation devices	Dir.	92/24	Annex II,1,45e			
Type approval of two or three-wheel motor vehicles	Dir.	92/61	Annex II,1,45f			
External projections forward of cab's rear panel	Dir.	92/114	Annex II,1,45g			

						
				ISL	LIE	NOR
Motor Vehicles (cont.)						
Braking of 2- or 3-wheelers	Dir.	93/14	Annex II, I, 45h			
Controls, tell-tales etc. for 2- or 3-wheelers	Dir.	93/29	Annex II, I, 45i			
Audible warning devices for 2- or 3-wheelers	Dir.	93/30	Annex II, I, 45j			
Stands for 2- or 3-wheelers	Dir.	93/31	Annex II, I, 45k			
Adapting to technical progress Directive 93/32	Dir.	1999/24	Annex II, I, 45l			
Passenger hand holds on 2-wheelers	Dir.	93/32	Annex II, I, 45l			
Adapting to technical progress Directive 93/33	Dir.	1999/23	Annex II, I, 45m			
Protective devices (anti-vol) of 2- or 3-wheelers	Dir.	93/33	Annex II, I, 45m			
Adapting to technical progress Directive 93/34	Dir.	1999/25	Annex II, I, 45n			
Statutory markings for 2- or 3-wheelers	Dir.	93/34	Annex II, I, 45n			
Lighting and light signalling on 2- or 3-wheelers	Dir.	93/92	Annex II, I, 45o			
Masses and dimensions of 2- or 3-wheelers	Dir.	93/93	Annex II, I, 45p			
Adapting to technical progress Directive 93/94	Dir.	1999/26	Annex II, I, 45q			
Rear registration plate space of 2- or 3-wheelers	Dir.	93/94	Annex II, I, 45q			
Mechanical coupling devices	Dir.	94/20	Annex II, I, 45r			
Maximum design speed Directive	Dir.	95/1	Annex II, I, 45s			
Burning behaviour of materials	Dir.	95/28	Annex II, I, 45t			
Protection in event of side impact	Dir.	96/27	Annex II, I, 45u			
Adapting to technical progress Directive 96/79	Dir.	1999/98	Annex II, I, 45v			
Frontal impact resistance	Dir.	96/79	Annex II, I, 45v			
Masses and dimensions	Dir.	97/27	Annex II, I, 45w			
Type approval of motor vehicles and their trailers	Dir.	97/24	Annex II, I, 45x			
						
Agriculture and Forestry Tractors				ISL	LIE	NOR
Adapting to tech. Progress Dir. 74/150 and 75/322	Dir.	2000/2	Annex II, II, 1			
Type approval of tractors	Dir.	74/150	Annex II, II, 1			
Amending maximum design speed	Dir.	97/54	Annex II, II, 1			
Certain parts and characteristics of tractors	Dir.	74/151	Annex II, II, 2			
Adapting Directive 74/151	Dir.	98/38	Annex II, II, 2			
Maximum design speed & load platforms of tractors	Dir.	74/152	Annex II, II, 3			
Adapting to technical progress Directive 74/152	Dir.	98/89	Annex II, II, 3			
Rear-view mirrors for tractors	Dir.	74/346	Annex II, II, 4			
Adapting Directive 74/346	Dir.	98/40	Annex II, II, 4			
Field of vision and windscreen wipers for tractors	Dir.	74/347	Annex II, II, 5			
Steering equipment of tractors	Dir.	75/321	Annex II, II, 6			
Adapting Directive 75/321	Dir.	98/39	Annex II, II, 6			
Radio interference produced by tractors	Dir.	75/322	Annex II, II, 7			

Meaning of shades:

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Non-implementation:










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IMPLEMENTATION STATUS OF DIRECTIVES

					
			ISL	LIE	NOR
Agriculture and Forestry Tractors (cont.)					
Braking devices of tractors	Dir. 76/432	Annex II,II,8			
Amending Dir. 76/432 on braking devices	Dir. 96/63	Annex II,II,8			
Passenger seats for tractors	Dir. 76/763	Annex II,II,9			
Driver-perceived noise level of tractors	Dir. 77/311	Annex II,II,10			
Adapting to technical progress Directive 77/536	Dir. 1999/55	Annex II,II,11			LFN
Roll-over protection structures of tractors	Dir. 77/536	Annex II,II,11			
Emissions from diesel engines for tractors	Dir. 77/537	Annex II,II,12			
Adapting to technical progress Directive 78/764	Dir. 1999/57	Annex II,II,13			LFN
Driver's seat on tractors	Dir. 78/764	Annex II,II,13			
Adapting to technical progress Directive 78/933	Dir. 1999/56	Annex II,II,14			
Lighting and light-signalling devices on tractors	Dir. 78/933	Annex II,II,14			
Type-approval of lighting & signalling – tractors	Dir. 79/532	Annex II,II,15			
Adapting to technical progress Directive 79/533	Dir. 1999/58	Annex II,II,16			
Coupling device and reverse of tractors	Dir. 79/533	Annex II,II,16			
Adapting to technical progress Directive 79/622	Dir. 1999/40	Annex II,II,17			LFN
Roll-over protection structures of tractors	Dir. 79/622	Annex II,II,17			
Operating space etc. of tractors	Dir. 80/720	Annex II,II,18			
Power take-offs of tractors	Dir. 86/297	Annex II,II,19			
Rear roll-over protection of narrow track tractors	Dir. 86/298	Annex II,II,20			
Controls of tractors	Dir. 86/415	Annex II,II,21			
Front roll-over protection – narrow track tractors	Dir. 87/402	Annex II,II,22			
Adapting to technical progress Directive 89/173	Dir. 2000/1	Annex II,II,23			
Certain components & characteristics of tractors	Dir. 89/173	Annex II,II,23			
					
Lifting and Mechanical Handling Appliances			ISL	LIE	NOR
Self-propelled industrial trucks	Dir. 86/663	Annex II,III,4			
Lifts	Dir. 95/16	Annex II,III,5			
					
Household Appliances			ISL	LIE	NOR
Electric ovens, labelling of energy consumption	Dir. 79/531	Annex II,IV,2	NNN		NNN
Noise emitted by household appliances	Dir. 86/594	Annex II,IV,3			
Labelling of household appliances	Dir. 92/75	Annex II,IV,4			
Energy labelling of household appliances	Dir. 94/2	Annex II,IV,4a			
Energy labelling of washing machines	Dir. 95/12	Annex II,IV,4b			
Amending Directive 95/12	Dir. 96/89	Annex II,IV,4b			
Energy labelling of tumble dryers	Dir. 95/13	Annex II,IV,4c			

						
Household Appliances (cont.)				ISL	LIE	NOR
Labelling of combined washer-driers	Dir.	96/60	Annex II, IV, 4d			
Energy labelling of household lamps	Dir.	98/11	Annex II, IV, 4e			
Implementing Dir. 92/75 reg. household dishwashers	Dir.	97/17	Annex II, IV, 4f			
Energy efficiency requirements	Dir.	96/57	Annex II, IV, 5			
Gas Appliances						
Gas appliances	Dir.	90/396	Annex II, V, 2			
Hot-water boilers	Dir.	92/42	Annex II, V, 3			
Construction Plant and Equipment						
Noise emission of construction plant and equipment	Dir.	79/113	Annex II, VI, 1			
Construction plant and equipment	Dir.	84/532	Annex II, VI, 2			
Compressors	Dir.	84/533	Annex II, VI, 3			
Tower cranes	Dir.	84/534	Annex II, VI, 4			
Welding generators	Dir.	84/535	Annex II, VI, 5			
Power generators	Dir.	84/536	Annex II, VI, 6			
Concrete-breakers and picks	Dir.	84/537	Annex II, VI, 7			
Roll-over protective structures	Dir.	86/295	Annex II, VI, 8			
Falling-object protective structures	Dir.	86/296	Annex II, VI, 9			
Excavators, dozers and loaders	Dir.	86/662	Annex II, VI, 10			
Noise limitation by excavators, dozers etc.	Dir.	95/27	Annex II, VI, 10			
Other Machines						
Lawnmowers	Dir.	84/538	Annex II, VII, 1			
Pressure Vessels						
Aerosol dispensers	Dir.	75/324	Annex II, VIII, 1			
Aerosol dispensers	Dir.	94/1	Annex II, VIII, 1			
Pressure vessels	Dir.	76/767	Annex II, VIII, 2			
Seamless steel gas cylinders	Dir.	84/525	Annex II, VIII, 3			
Seamless aluminium gas cylinders	Dir.	84/526	Annex II, VIII, 4			
Welded steel gas cylinders	Dir.	84/527	Annex II, VIII, 5			
Simple pressure vessels	Dir.	87/404	Annex II, VIII, 6			
Pressure equipments	Dir.	97/23	Annex II, VIII, 6a			

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IMPLEMENTATION STATUS OF DIRECTIVES

						
				ISL	LIE	NOR
Measuring Instruments						
Measuring instruments & metrological control – FD	Dir.	71/316	Annex II, IX, 1			
5 – 50 kg bar and 1 g – 10 kg cylindrical weights	Dir.	71/317	Annex II, IX, 2			
Gas volume meters	Dir.	71/318	Annex II, IX, 3			
Meters for liquids other than water	Dir.	71/319	Annex II, IX, 4			
Meas. Standard mass per storage volume of grain	Dir.	71/347	Annex II, IX, 5			
Ancillary equipment for non-water liquid meters	Dir.	71/348	Annex II, IX, 6			
Calibration of tanks of vessels	Dir.	71/349	Annex II, IX, 7			
Material measures of length	Dir.	73/362	Annex II, IX, 9			
Weights of 1 mg – 50 kg above medium-accuracy	Dir.	74/148	Annex II, IX, 10			
Cold-water meters	Dir.	75/33	Annex II, IX, 11			
Making up by volume of prepacked liquids	Dir.	75/106	Annex II, IX, 12			
Bottles used as measuring containers	Dir.	75/107	Annex II, IX, 13			
Continuous totalizing weighing machines	Dir.	75/410	Annex II, IX, 14			
Making up by weight or volume prepackaged product	Dir.	76/211	Annex II, IX, 15			
Alcoholometers and alcohol hydrometers	Dir.	76/765	Annex II, IX, 17			
Alcohol tables	Dir.	76/766	Annex II, IX, 18			
Electrical energy meters	Dir.	76/891	Annex II, IX, 19			
Taximeters	Dir.	77/95	Annex II, IX, 20			
Measuring systems for liquids other than water	Dir.	77/313	Annex II, IX, 21			
Automatic checkweighing & weight grading machines	Dir.	78/1031	Annex II, IX, 22			
Hot water meters	Dir.	79/830	Annex II, IX, 23			
Units of measurement	Dir.	80/181	Annex II, IX, 24			
Prepackaged products – nom. Quantities, capacities	Dir.	80/232	Annex II, IX, 25			
Tyre pressure gauges for motor vehicles	Dir.	86/217	Annex II, IX, 26			
Non-automatic weighing instruments (NAWI)	Dir.	90/384	Annex II, IX, 27			
						
Electrical Material				ISL	LIE	NOR
Low Voltage Directive (LVD)	Dir.	73/23	Annex II, X, 1			
Electrical Ex Equipment Directive	Dir.	76/117	Annex II, X, 2			
Implementation of Electrical Ex Equip. Directive	Dir.	79/196	Annex II, X, 3			
Electrical equipment	Dir.	97/53	Annex II, X, 3			
Electrical Ex in Mines Directive	Dir.	82/130	Annex II, X, 4			
New Annex A to Dir. 82/130	Dir.	94/44	Annex II, X, 4			
Electrical equipment	Dir.	98/65	Annex II, X, 4	LFN		
Electro-medical equipment	Dir.	84/539	Annex II, X, 5			
Electromagnetic Compatibility Directive (EMC)	Dir.	89/336	Annex II, X, 6			
Amending EMC Directive	Dir.	92/31	Annex II, X, 6			

Electrical Material (cont.)						
				ISL	LIE	NOR
Active Implantable Medical Devices (AIMD)	Dir.	90/385	Annex II,X,7			
ATEX Directive	Dir.	94/9	Annex II,X,7a			
New Annex I for Dir. 79/196	Dir.	94/26	Annex II,X,7b			
Textiles						
				ISL	LIE	NOR
Quantitative analysis of ternary fibre mixtures	Dir.	73/44	Annex II,XI,3			
Quantitative analysis of binary textile	Dir.	96/73	Annex II,XI,4a			
Textile names	Dir.	96/74	Annex II,XI,4b			
Adapting to technical progress Dir. 96/74	Dir.	97/37	Annex II,XI,4b			
Foodstuffs						
				ISL	LIE	NOR
Colourants	Dir.	62/2645	Annex II,XII,1			
Preservatives	Dir.	64/54	Annex II,XII,2			
Use of preservatives on citrus fruit	Dir.	67/427	Annex II,XII,4			
Antioxidants	Dir.	70/357	Annex II,XII,5			
Cocoa and chocolate	Dir.	73/241	Annex II,XII,6			
Sugars for human consumption	Dir.	73/437	Annex II,XII,7			
Emulsifiers, stabilizers and thickeners	Dir.	74/329	Annex II,XII,8			
Honey	Dir.	74/409	Annex II,XII,9			
Dehydrated preserved milk	Dir.	76/118	Annex II,XII,11			
Erucic acid in oils and fats	Dir.	76/621	Annex II,XII,12			
Pesticides in fruit and vegetables – basic act	Dir.	76/895	Annex II,XII,13			
Pesticides in fruit and vegetables – annex	Dir.	93/58	Annex II,XII,13			
Pesticides in fruit and vegetables – annex	Dir.	96/32	Annex II,XII,13			
Pesticide residues – general amendment	Dir.	97/41	Annex II,XII,13			
Materials and articles – vinyl chloride	Dir.	78/142	Annex II,XII,15			
Purity criteria for miscellaneous additives	Dir.	78/663	Annex II,XII,16			
Purity of miscellaneous additives – amendment	Dir.	92/4	Annex II,XII,16			
Labelling of foodstuffs – derogations	Dir.	1999/10	Annex II,XII,18			
Labelling of foodstuffs – basic act	Dir.	79/112	Annex II,XII,18			
Labelling – categories	Dir.	93/102	Annex II,XII,18			
Labelling - packaging gases	Dir.	94/54	Annex II,XII,18			
Labelling – sell out stocks	Dir.	95/42	Annex II,XII,18			
Labelling – food containing sweeteners	Dir.	96/21	Annex II,XII,18			
Labelling - QUID	Dir.	97/4	Annex II,XII,18			
Fruit jams, jellies and marmalades	Dir.	79/693	Annex II,XII,19			

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IMPLEMENTATION STATUS OF DIRECTIVES

						
Foodstuffs (cont.)				ISL	LIE	NOR
Pesticides – sampling	Dir.	79/700	Annex II,XII,20			
Sugars - analysis	Dir.	79/796	Annex II,XII,21			
Coffee and chicory – analysis	Dir.	79/1066	Annex II,XII,22			
Dehydrated preserved milk – analysis	Dir.	79/1067	Annex II,XII,23			
Symbol – materials in contact with foodstuffs	Dir.	80/590	Annex II,XII,24			
Vinyl chloride monomer – analysis	Dir.	80/766	Annex II,XII,25			
Natural mineral waters	Dir.	80/777	Annex II,XII,26			
Natural mineral waters – amendment	Dir.	96/70	Annex II,XII,26			
Erucic acid in oils and fats – analysis	Dir.	80/891	Annex II,XII,27			
Vinyl chloride – analysis	Dir.	81/432	Annex II,XII,28			
Purity of additives – analysis	Dir.	81/712	Annex II,XII,29			
Migration constituents of plastic materials	Dir.	82/711	Annex II,XII,30			
Migration constituents of plastic materials	Dir.	93/8	Annex II,XII,30			
Migration constituents of plastic materials	Dir.	97/48	Annex II,XII,30			
Lactoproteins – caseins and caseinates	Dir.	83/417	Annex II,XII,32			
Labelling – EEC numbers	Dir.	83/463	Annex II,XII,33			
Ceramic articles	Dir.	84/500	Annex II,XII,34			
Caseins and caseinates – analysis	Dir.	85/503	Annex II,XII,35			
Simulants – testing migration of plastics	Dir.	85/572	Annex II,XII,36			
Sampling and analysis of foodstuffs – basic act	Dir.	85/591	Annex II,XII,37	NNN	NNN	NNN
Pesticide residues – programmes	Dir.	1999/65	Annex II,XII,38	NNN		NNN
Pesticides in cereals – basic act	Dir.	86/362	Annex II,XII,38			
Pesticides in cereals – annex	Dir.	93/57	Annex II,XII,38			
Pesticides in cereals and fruit – annex	Dir.	94/29	Annex II,XII,38			
Pesticides in cereals – annex	Dir.	95/39	Annex II,XII,38			
Pesticides in cereals – annex	Dir.	96/33	Annex II,XII,38			
Pesticide residues – annex	Dir.	98/82	Annex II,XII,38			
Pesticide residues – amending annexes	Dir.	1999/71	Annex II,XII,38,39,54			
Pesticide residues – new dates	Dir.	97/71	Annex II,XII,38,39,54	NNN	NNN	NNN
Pesticides in food of animal origin – basic act	Dir.	86/363	Annex II,XII,39			
Caseins and caseinates – sampling	Dir.	86/424	Annex II,XII,40			
Labelling of alcoholic beverages	Dir.	87/250	Annex II,XII,41			
Preserved milk – sampling	Dir.	87/524	Annex II,XII,42			
Extraction solvents – basic act	Dir.	88/344	Annex II,XII,43			
Extraction solvents – 1st amendment	Dir.	92/115	Annex II,XII,43			
Extraction solvents – amending	Dir.	94/52	Annex II,XII,43			
Extraction solvents – amendment	Dir.	97/60	Annex II,XII,43			
Flavourings – basic act	Dir.	88/388	Annex II,XII,44			

Foodstuffs (cont.)						
				ISL	LIE	NOR
Food additives – framework Directive	Dir.	89/107	Annex II,XII,46			
Food additives – traditional foods	Dir.	94/34	Annex II,XII,46	NNN	NNN	NNN
Purity of miscellaneous additives	Dir.	96/77	Annex II,XII,46			
Purity of miscellaneous additives – amendment	Dir.	98/86	Annex II,XII,46			
Purity of sweeteners in foodstuffs	Dir.	95/31	Annex II,XII,46a			
Purity of sweeteners – amendment	Dir.	98/66	Annex II,XII,46a			
Purity criteria for colourants – amendment	Dir.	1999/75	Annex II,XII,46b	NNN		NNN
Purity criteria for colourants	Dir.	95/45	Annex II,XII,46b			
Quick frozen foodstuffs	Dir.	89/108	Annex II,XII,47			
Materials and articles in contact with food	Dir.	89/109	Annex II,XII,48			
Labelling of foodstuffs – lot numbers	Dir.	89/396	Annex II,XII,49			
Labelling of foodstuffs – lot numbers	Dir.	92/11	Annex II,XII,49			
Official control of foodstuffs	Dir.	89/397	Annex II,XII,50			
Food for particular nutritional purposes	Dir.	1999/41	Annex II,XII,51			
Food for particular nutritional uses – basic act	Dir.	89/398	Annex II,XII,51			
Food for particular nutritional purposes	Dir.	96/84	Annex II,XII,51			
Plastic materials and articles	Dir.	1999/91	Annex II,XII,52			
Plastic materials and articles	Dir.	90/128	Annex II,XII,52			
Plastic materials and articles – amendment	Dir.	92/39	Annex II,XII,52			
Plastic materials and articles – amendment	Dir.	93/9	Annex II,XII,52			
Plastic materials and articles – amendment	Dir.	95/3	Annex II,XII,52			
Plastic materials and articles – amendment	Dir.	96/11	Annex II,XII,52			
Nutritional labelling	Dir.	90/496	Annex II,XII,53			
Pesticides in fruit and vegetables	Dir.	90/642	Annex II,XII,54			
Pesticides in fruit and vegetables – annex	Dir.	94/30	Annex II,XII,54			
Pesticides in fruit and vegetables – annex	Dir.	95/38	Annex II,XII,54			
Pesticides in fruit and vegetables – annex	Dir.	95/61	Annex II,XII,54			
Infant formulae	Dir.	1999/50	Annex II,XII,54a			
Infant formulae and follow-on formulae	Dir.	91/321	Annex II,XII,54a			
Infant formulae – amendment	Dir.	96/4	Annex II,XII,54a			
Quick-frozen food – monitoring temperatures	Dir.	92/1	Annex II,XII,54c			
Quick-frozen food – sampling and analysis	Dir.	92/2	Annex II,XII,54d			
Scientific co-operation	Dir.	93/5	Annex II,XII,54g	NNN	NNN	NNN
Plastic materials and articles – cellulose film	Dir.	93/10	Annex II,XII,54h			
Plastic materials and articles – cellulose film	Dir.	93/111	Annex II,XII,54h			
Rubber teats and soothers – release of substances	Dir.	93/11	Annex II,XII,54i			
Hygiene of foodstuffs – raw sugar	Dir.	98/28	Annex II,XII,54j			
Hygiene of foodstuffs	Dir.	93/43	Annex II,XII,54j			

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				ISL	LIE	NOR
Foodstuffs (cont.)						
Hygiene of foodstuffs – bulk liquid oils and fats	Dir.	96/3	Annex II,XII,54j			
Nectars without sugars and honey	Dir.	93/45	Annex II,XII,54k			
Fruit juices	Dir.	93/77	Annex II,XII,54m			
Additional control measures for foodstuffs	Dir.	93/99	Annex II,XII,54n			
Energy restricted diets	Dir.	96/8	Annex II,XII,54p			
Sampling of aflatoxins	Dir.	98/53	Annex II,XII,54s			
Coffee and Chicory Extracts	Dir.	1999/4	Annex II,XII,54t			
Medicinal Products				ISL	LIE	NOR
First Directive PMP	Dir.	65/65	Annex II,XIII,1			
Homeopathic pharmaceuticals	Dir.	92/73	Annex II,XIII,1			
Amending Directive EMEA	Dir.	93/39	Annex II,XIII,1			
Amending 75/318	Dir.	1999/82	Annex II,XIII,2			
Amending 75/318	Dir.	1999/83	Annex II,XIII,2			
Standards and testing PMP	Dir.	75/318	Annex II,XIII,2			
Testing/amending annex	Dir.	91/507	Annex II,XIII,2			
Second Directive PMP	Dir.	75/319	Annex II,XIII,3			
Colouring matters	Dir.	78/25	Annex II,XIII,4			
VMP	Dir.	81/851	Annex II,XIII,5			
Homeopathic veterinary pharmaceuticals	Dir.	92/74	Annex II,XIII,5			
Amending Directive EMEA	Dir.	93/40	Annex II,XIII,5			
Standards and testing VMP	Dir.	81/852	Annex II,XIII,6			
Standards and testing/Annex modified	Dir.	92/18	Annex II,XIII,6			
Protection of experimental animals	Dir.	86/609	Annex II,XIII,7	PRE		
Amending Directive EMEA	Dir.	93/41	Annex II,XIII,8			
Pricing of pharmaceuticals	Dir.	89/105	Annex II,XIII,9			
Immunological PMP	Dir.	89/342	Annex II,XIII,10			
Radiopharmaceuticals	Dir.	89/343	Annex II,XIII,11			
Human blood	Dir.	89/381	Annex II,XIII,12			
Immunological VMP	Dir.	90/677	Annex II,XIII,13			
Good manufacturing practice	Dir.	91/356	Annex II,XIII,15			
Good manufacturing practice/VMP	Dir.	91/412	Annex II,XIII,15a			
Wholesale distribution	Dir.	92/25	Annex II,XIII,15b			
Classification for supply	Dir.	92/26	Annex II,XIII,15c			
Labelling of pharmaceuticals	Dir.	92/27	Annex II,XIII,15d			
Advertising of pharmaceuticals	Dir.	92/28	Annex II,XIII,15e			
Narcotic precursors	Dir.	92/109	Annex II,XIII,15f			
Narcotic precursors/Annex modified	Dir.	93/46	Annex II,XIII,15f			

						
				ISL	LIE	NOR
Fertilizers						
Fertilizers Directive	Dir.	76/116	Annex II,XIV,1			
Fertilizers Directive	Dir.	93/69	Annex II,XIV,1			
Fertilizers – urea	Dir.	96/28	Annex II,XIV,1			
Fertilisers – EC marking	Dir.	97/63	Annex II,XIV,1			
Fluid fertilisers	Dir.	98/3	Annex II,XIV,1			
Cadmium in fertilisers	Dir.	98/97	Annex II,XIV,1	NNN	NNN	NNN
Analysis of fertilizers	Dir.	77/535	Annex II,XIV,2			
Analysis of fertilizers	Dir.	93/1	Annex II,XIV,2			
Analysis of fertilisers	Dir.	95/8	Annex II,XIV,2			
High nitrogen fertilizers	Dir.	80/876	Annex II,XIV,3			
Detonation of hi-N fertilizers	Dir.	87/94	Annex II,XIV,4			
Trace elements in fertilizers	Dir.	89/284	Annex II,XIV,5			
Analysis of fertilizers, add	Dir.	89/519	Annex II,XIV,6			
Trace elements in fertilizers, add	Dir.	89/530	Annex II,XIV,7			
Dangerous Substances				ISL	LIE	NOR
Substances - extra labels for Austria and Sweden	Dir.	1999/33	Annex II,XV,1	NNN	NNN	NNN
Substance Directive - basic act	Dir.	67/548	Annex II,XV,1			
Substance Directive - child res. fast.	Dir.	91/410	Annex II,XV,1			
Substance Directive - 15th TA	Dir.	91/632	Annex II,XV,1			
Substance Directive - 7th amendment	Dir.	92/32	Annex II,XV,1			
Substance Directive - 16th TA	Dir.	92/37	Annex II,XV,1			
Substance Directive - 17th TA	Dir.	92/69	Annex II,XV,1			
Substance Directive - 20th TA	Dir.	93/101	Annex II,XV,1			
Substance Directive - polymers	Dir.	93/105	Annex II,XV,1			
Substance Directive - 18th TA	Dir.	93/21	Annex II,XV,1			
Substance Directive - 19th TA	Dir.	93/72	Annex II,XV,1			
Substance Directive - 21st TA	Dir.	94/69	Annex II,XV,1			
Substance Directive - 22nd TA	Dir.	96/54	Annex II,XV,1			
Substance Directive - EC number	Dir.	96/56	Annex II,XV,1			
Substance Directive - 23rd TA	Dir.	97/69	Annex II,XV,1			
Non-ionic detergents	Dir.	73/404	Annex II,XV,2			
Anionic detergents	Dir.	73/405	Annex II,XV,3			
Carcinogens and mutagens - amendment	Dir.	1999/43	Annex II,XV,4			
Tin and PCP restrictions	Dir.	1999/51	Annex II,XV,4			
Restrictions Directive	Dir.	76/769	Annex II,XV,4			
Restrictions Directive - asbestos	Dir.	91/659	Annex II,XV,4	TRP	TRP	TRP

Meaning of shades:

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Partial implementation:



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IMPLEMENTATION STATUS OF DIRECTIVES

						
Dangerous Substances (cont.)				ISL	LIE	NOR
Restrictions Directive - nickel	Dir.	94/27	Annex II,XV,4	NNN	NNN	NNN
Aerosol restrictions - 13th amendment	Dir.	94/48	Annex II,XV,4	NNN	NNN	NNN
CMR restrictions - 14th TA	Dir.	94/60	Annex II,XV,4			
Restrictions - chlorinated solvents	Dir.	96/55	Annex II,XV,4			
CMR restrictions - 3rd TA	Dir.	97/10	Annex II,XV,4			
HCE restrictions - 15th TA	Dir.	97/16	Annex II,XV,4			
CMT restrictions - 16th amendment	Dir.	97/56	Annex II,XV,4			
Restriction on lamp oils	Dir.	97/64	Annex II,XV,4			
Pesticides Directive	Dir.	78/631	Annex II,XV,5	NNN	NNN	NNN
PPP Directive old	Dir.	79/117	Annex II,XV,6	NNN	NNN	NNN
PPP Directive	Dir.	90/335	Annex II,XV,6	NNN	NNN	NNN
Non-ionic detergent biodegradability	Dir.	82/242	Annex II,XV,7			
GLP directive - amendment	Dir.	1999/11	Annex II,XV,8			
GLP Directive	Dir.	87/18	Annex II,XV,8			
Inspection of GLP - amendment	Dir.	1999/12	Annex II,XV,9			
Inspection of GLP	Dir.	88/320	Annex II,XV,9			
Inspection of GLP - amending Annex	Dir.	90/18	Annex II,XV,9			
Preparations Directive	Dir.	88/379	Annex II,XV,10			
Preparations Directive - SDS	Dir.	93/112	Annex II,XV,10			
Preparations Directive - 3rd TA	Dir.	93/18	Annex II,XV,10			
Aspiration hazard	Dir.	96/65	Annex II,XV,10			
Batteries Directive	Dir.	91/157	Annex II,XV,11			
Batteries Directive - amendment	Dir.	93/86	Annex II,XV,11			
Batteries and accumulators	Dir.	98/101	Annex II,XV,11			
Active substance (kresoxim-methyl) in Annex I	Dir.	1999/1	Annex II,XV,12a	NNN	NNN	NNN
PPP directive - spiroxamine	Dir.	1999/73	Annex II,XV,12a	NNN	NNN	NNN
PPP directive - azimsulfuron	Dir.	1999/80	Annex II,XV,12a	NNN	NNN	NNN
PPP Directive new	Dir.	91/414	Annex II,XV,12a	NNN	NNN	NNN
PPP Directive new - amendment	Dir.	93/71	Annex II,XV,12a	NNN	NNN	NNN
PPP Directive - active substances	Dir.	94/37	Annex II,XV,12a	NNN	NNN	NNN
PPP Directive - uniform principles	Dir.	94/43	Annex II,XV,12a	NNN	NNN	NNN
PPP Directive - amending Annexes II and III	Dir.	94/79	Annex II,XV,12a	NNN	NNN	NNN
PPP Directive - amending Annexes II and III	Dir.	95/35	Annex II,XV,12a	NNN	NNN	NNN
PPP Directive - environment	Dir.	95/36	Annex II,XV,12a	NNN	NNN	NNN
PPP Directive - ecotox studies	Dir.	96/12	Annex II,XV,12a	NNN	NNN	NNN
PPP Directive - analytical methods	Dir.	96/46	Annex II,XV,12a	NNN	NNN	NNN
PPP Directive - amending Annexes II and III	Dir.	96/68	Annex II,XV,12a	NNN	NNN	NNN
PPP Directive - uniform principles	Dir.	97/57	Annex II,XV,12a	NNN	NNN	NNN

						
Dangerous Substances (cont.)				ISL	LIE	NOR
PPP - imazalil in Annex I	Dir.	97/73	Annex II,XV,12a	NNN	NNN	NNN
PPP - amending Annex I of Dir. 91/414	Dir.	98/47	Annex II,XV,12a	NNN	NNN	NNN
Fastenings on preparations	Dir.	91/442	Annex II,XV,12b			
Risk assessment of new chemicals	Dir.	93/67	Annex II,XV,12d			
Cosmetics						
				ISL	LIE	NOR
Cosmetics – basic act	Dir.	76/768	Annex II,XVI,1			
Cosmetics – 14th TA	Dir.	92/8	Annex II,XVI,1			
Cosmetics – 15th TA	Dir.	92/86	Annex II,XVI,1			
Cosmetics – 6th amendment	Dir.	93/35	Annex II,XVI,1			
Cosmetics – 16th TA	Dir.	93/47	Annex II,XVI,1			
Cosmetics – 17th TA	Dir.	94/32	Annex II,XVI,1			
Cosmetics – 18th TA	Dir.	95/34	Annex II,XVI,1			
Cosmetics – 19th TA	Dir.	96/41	Annex II,XVI,1			
Cosmetics – animal testing	Dir.	97/18	Annex II,XVI,1			
Cosmetics – 21st TA	Dir.	97/45	Annex II,XVI,1			
Cosmetics – 22nd TA	Dir.	98/16	Annex II,XVI,1			
Cosmetics – 23rd TA	Dir.	98/62	Annex II,XVI,1			
Cosmetics – 1st Directive on analysis	Dir.	80/1335	Annex II,XVI,2			
Cosmetics – 2nd Directive on analysis	Dir.	82/434	Annex II,XVI,3			
Cosmetics – 3rd Directive on analysis	Dir.	83/514	Annex II,XVI,4			
Cosmetics – 4th Directive on analysis	Dir.	85/490	Annex II,XVI,5			
Cosmetics – 5th Directive on analysis	Dir.	93/73	Annex II,XVI,6			
Cosmetics – 6th Directive on analysis	Dir.	95/32	Annex II,XVI,7			
Cosmetics – 7th Directive on analysis	Dir.	96/45	Annex II,XVI,8			
Cosmetics – confidentiality rules	Dir.	95/17	Annex II,XVI,9			
Environment Protection						
				ISL	LIE	NOR
Noise from aircrafts	Dir.	80/51	Annex II,XVII,2		NNN	
Lead in petrol	Dir.	85/210	Annex II,XVII,3			
Noise from jets	Dir.	89/629	Annex II,XVII,5		NNN	
Sulphur in fuels new	Dir.	93/12	Annex II,XVII,6			
Packaging and packaging waste	Dir.	94/62	Annex II,XVII,7			
Volatile organic compounds emissions	Dir.	94/63	Annex II,XVII,8			

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				ISL	LIE	NOR
Information Technology						
Satellite earth station equipment	Dir.	93/97	Annex II, XVIII, 4			
Radio and telecommunication terminal equipment	Dir.	1999/5	Annex II, XVIII, 4zg			
						
General TBT				ISL	LIE	NOR
Information procedure on draft technical reg.	Dir.	98/34	Annex II, XIX, 1			
General Product Safety	Dir.	92/59	Annex II, XIX, 3a			
New approach directives/amendments	Dir.	93/68	Annex II, XIX, 3c			
Labelling of footwear	Dir.	94/11	Annex II, XIX, 3e			
Crystal glass	Dir.	69/493	Annex II, XIX, 3g			
						
Construction Products				ISL	LIE	NOR
Construction products	Dir.	89/106	Annex II, XXI, 1			
						
Personal Protection Equipment				ISL	LIE	NOR
Personal protective equipment	Dir.	89/686	Annex II, XXII, 1			
Personal protective equipment	Dir.	93/95	Annex II, XXII, 1			
Personal protective equipment –amending Dir.89/686	Dir.	96/58	Annex II, XXII, 1			
						
Toys				ISL	LIE	NOR
Safety of toys	Dir.	88/378	Annex II, XXIII, 1			
						
Machinery				ISL	LIE	NOR
Machinery	Dir.	98/37	Annex II, XXIV, 1	LFN		
Emission of gaseous and particulate pollutants	Dir.	97/68	Annex II, XXIV, 1a			
						
Tobacco				ISL	LIE	NOR
Labelling of tobacco products	Dir.	89/622	Annex II, XXV, 1			
Tobacco Directive (snus) – amendment	Dir.	92/41	Annex II, XXV, 1			
Tar yield of cigarettes	Dir.	90/239	Annex II, XXV, 2			

						
				ISL	LIE	NOR
Cultural Goods						
Return of cultural objects	Dir.	93/7	Annex II, XXVIII,1	LFN		
Return of cultural objects - amending	Dir.	96/100	Annex II, XXVIII,1			
						
				ISL	LIE	NOR
Explosives for Civil Use						
Explosives for civil use	Dir.	93/15	Annex II, XXIX,1			
						
				ISL	LIE	NOR
Medical Devices						
Medical devices	Dir.	93/42	Annex II, XXX,1			
Medical devices	Dir.	98/79	Annex II, XXX,2			
						
				ISL	LIE	NOR
Recreational Craft						
Recreational craft	Dir.	94/25	Annex II, XXXI,1			
						
				ISL	LIE	NOR
Product Liability						
Product liability	Dir.	85/374	Annex III			
						
				ISL	LIE	NOR
Energy						
Heat generators	Dir.	78/170	Annex IV,4			
Substitute fuel components in petrol	Dir.	85/536	Annex IV,6	NNN		NNN
Transit of electricity	Dir.	90/547	Annex IV,8	NNN		
Transit of gas	Dir.	91/296	Annex IV,9	NNN		NNN
Hydrocarbon licensing	Dir.	94/22	Annex IV,12	NNN	NNN	
Internal market for electricity directive	Dir.	96/92	Annex IV,14	TRP	TRP	
						
				ISL	LIE	NOR
Intellectual Property						
Protection of topographies of semiconductor prod.	Dir.	87/54	Annex XVII,1			
Trade marks law	Dir.	89/104	Annex XVII,4			
Software Directive	Dir.	91/250	Annex XVII,5			
Rental-, lending-, copy-right	Dir.	92/100	Annex XVII,7			
Copyright, satellite broadcast/cable retransm.	Dir.	93/83	Annex XVII,8			
Duration of copyright/other related rights	Dir.	93/98	Annex XVII,9			
Legal protection of databases	Dir.	96/9	Annex XVII,9a			

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				ISL	LIE	NOR
Free Movement of Workers						
Public Policy, Security and Health	Dir.	64/221	Annex V,1			
Free Movement of Workers	Dir.	68/360	Annex V,3		SPA	
Extension of the Scope of Dir. 64/221	Dir.	72/194	Annex V,5			
Education of Children of Migrant Workers	Dir.	77/486	Annex V,6			
						
Mutual Recognition – Professionals				ISL	LIE	NOR
First General System	Dir.	89/48	Annex VII,1			
Second General System	Dir.	92/51	Annex VII,1a			
Amendment 1994 to Second General System	Dir.	94/38	Annex VII, 1a			NNN
Amendment 1995 to Second General System	Dir.	95/43	Annex VII, 1a			NNN
Amendment 1997 to Second General System	Dir.	97/38	Annex VII, 1a			NNN
Lawyers' Services	Dir.	77/249	Annex VII,2			
Acquired Rights in Medical Professions	Dir.	81/1057	Annex VII,3			
Free movement of doctors	Dir.	1999/46	Annex VII, 4			
Doctors	Dir.	93/16	Annex VII,4			
Doctors directive – Amending lists of designations	Dir.	97/50	Annex VII, 4			NNN
Free movement of doctors	Dir.	98/21	Annex VII, 4			
Free movement of doctors	Dir.	98/63	Annex VII, 4			
Nurses	Dir.	77/452	Annex VII,8			
Training for Nurses	Dir.	77/453	Annex VII,9		NNN	
Dentists	Dir.	78/686	Annex VII,10			
Training for Dentists	Dir.	78/687	Annex VII,11		NNN	
Veterinarians	Dir.	78/1026	Annex VII,12			
Training for Veterinarians	Dir.	78/1027	Annex VII,13		NNN	
Midwives	Dir.	80/154	Annex VII,14		PRE	
Training for Midwives	Dir.	80/155	Annex VII,15		NNN	
Training for Pharmacists	Dir.	85/432	Annex VII,16		NNN	
Pharmacists	Dir.	85/433	Annex VII,17			
Architects	Dir.	85/384	Annex VII,18			NNN
						
Mutual Recognition - Industry etc.				ISL	LIE	NOR
Transitional Wholesale Trade	Dir.	64/222	Annex VII,20			
Wholesale Trade	Dir.	64/223	Annex VII,21			
Intermediaries in Industries	Dir.	64/224	Annex VII,22			
Retail Trade	Dir.	68/363	Annex VII,23			
Transitional Retail Trade	Dir.	68/364	Annex VII,24			

Mutual Recognition - Industry etc. (cont.)

						
				ISL	LIE	NOR
Coal Trade	Dir.	70/522	Annex VII,25			
Transitional Coal Trade	Dir.	70/523	Annex VII,26			
Transitional Toxic Products	Dir.	74/556	Annex VII,27			
Toxic Products	Dir.	74/557	Annex VII,28			
Itinerant Activities	Dir.	75/369	Annex VII,29			
Commercial Agents	Dir.	86/653	Annex VII,30			
Transitional Manufacturing and Processing	Dir.	64/427	Annex VII,31			
Manufacturing and Processing	Dir.	64/429	Annex VII,32			
Mining and Quarrying	Dir.	64/428	Annex VII,33			
Provision of Electricity, Gas and Water	Dir.	66/162	Annex VII,34			
Food Manufacturing and Beverage	Dir.	68/365	Annex VII,35			
Transitional Food Manufacturing and Beverage	Dir.	68/366	Annex VII,36			
Exploration for Petroleum and Gas	Dir.	69/82	Annex VII,37			
Transport, Travel, Storage, Warehousing	Dir.	82/470	Annex VII,38			
First Film Industry	Dir.	63/607	Annex VII,39	NNN		NNN
Second Film Industry	Dir.	65/264	Annex VII,40	NNN		NNN
Film Distribution	Dir.	68/369	Annex VII,41	NNN		NNN
Film Production	Dir.	70/451	Annex VII,42	NNN		NNN

Mutual Recognition – Other

						
				ISL	LIE	NOR
Real Estate and Business Services	Dir.	67/43	Annex VII,43			
Personal Services	Dir.	68/367	Annex VII,44			
Transitional Personal Services	Dir.	68/368	Annex VII,45			
Various Activities	Dir.	75/368	Annex VII,46	LFN		
Hairdressing	Dir.	82/489	Annex VII,47			
Establishment in Agriculture	Dir.	63/261	Annex VII,48			
Agricultural Holdings	Dir.	63/262	Annex VII,49			
Services in Agriculture	Dir.	65/1	Annex VII,50			
Transfer between Holdings	Dir.	67/530	Annex VII,51			
Agricultural Leases	Dir.	67/531	Annex VII,52			
Access to Cooperatives	Dir.	67/532	Annex VII,53			
Forestry and Logging	Dir.	67/654	Annex VII,54			
Access to Credits	Dir.	68/192	Annex VII,55			
Access to Aid	Dir.	68/415	Annex VII,56			
Agricultural and Horticultural	Dir.	71/18	Annex VII,57			

Meaning of shades:

No duty to implement:



Partial implementation:



Full implementation notified*:



Non-implementation:



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IMPLEMENTATION STATUS OF DIRECTIVES

						
				ISL	LIE	NOR
Right of Establishment						
Right of Movement and Residence	Dir.	73/148	Annex VIII,3		SPA	
Residence after Activity	Dir.	75/34	Annex VIII,4			
Extension of Scope	Dir.	75/35	Annex VIII,5			
Right of Residence	Dir.	90/364	Annex VIII,6		SPA	
Residence after Occupation	Dir.	90/365	Annex VIII,7		SPA	
Residence for Students	Dir.	93/96	Annex VIII,8		SPA	
						
Banking				ISL	LIE	NOR
Post BCCI	Dir.	95/26	Annex IX,2			
Abolition of Restrictions on Freedom in Banking	Dir.	73/183	Annex IX,14			
First Banking	Dir.	77/780	Annex IX,15			
Amendment 1996 to First Banking	Dir.	96/13	Annex IX,15	NNN	NNN	NNN
Second Banking	Dir.	89/646	Annex IX,16			LFN
Credit Transfers	Dir.	97/5	Annex IX, 16a, Annex XIX, 7c			
Settlement Finality Directive	Dir.	98/26	Annex IX,16b	PRE	PRE	PRE
Own Funds of Credit Institutions	Dir.	89/299	Annex IX,17			
Amendment 1991 to Own Funds	Dir.	91/633	Annex IX,17			
Amendment 1992 to Own Funds	Dir.	92/16	Annex IX,17			
Solvency Ratio for Credit Institutions	Dir.	89/647	Annex IX,18			
Definition of Multilateral Development Banks	Dir.	94/7	Annex IX,18			
Amendment 1995 to Solvency Ratio	Dir.	95/15	Annex IX,18			
Second Amendment 1995 to Solvency Ratio	Dir.	95/67	Annex IX,18			
Amendment 1996 to Solvency Ratio - Netting	Dir.	96/10	Annex IX, 18			
Amending Solvency Ratio for Credit Institutions	Dir.	98/32	Annex IX,18			
Definition of Multilateral Development Banks	Dir.	91/31	Annex IX,19			
Deposit-Guarantee Schemes	Dir.	94/19	Annex IX,19a		RDO	RDO
Consolidated Supervision of Credit Institutions	Dir.	92/30	Annex IX,20			
Annual and Consolidated Accounts of Banks	Dir.	86/635	Annex IX,21		RDO	
Publication of Annual Accounts of Bank Branches	Dir.	89/117	Annex IX,22			
Money Laundering	Dir.	91/308	Annex IX,23			
Large Exposures of Credit Institutions	Dir.	92/121	Annex IX,23a			
Amending Solvency and CAD Provisions	Dir.	98/33	Annex IX, 15,18, 30a			
						
Insurance				ISL	LIE	NOR
Reinsurance	Dir.	64/225	Annex IX,1			
First Non-Life Insurance	Dir.	73/239	Annex IX,2			RDO

						
Insurance (cont.)				ISL	LIE	NOR
Abolition of Restrictions in Non-Life Insurance	Dir.	73/240	Annex IX,3			
Co-insurance	Dir.	78/473	Annex IX,4			
Tourist Assistance	Dir.	84/641	Annex IX,5			
Legal Expense Insurance	Dir.	87/344	Annex IX,6		RDO	
Second Non-Life Insurance	Dir.	88/357	Annex IX,7			
Third Non-Life Insurance	Dir.	92/49	Annex IX,7a			
First Motor Insurance	Dir.	72/166	Annex IX, 8			
Second Motor Insurance	Dir.	84/5	Annex IX, 9			
Third Motor Insurance	Dir.	90/232	Annex IX,10			
First Life Assurance	Dir.	79/267	Annex IX,11			RDO
Second Life Assurance	Dir.	90/619	Annex IX,12		RDO	
Third Life Assurance	Dir.	92/96	Annex IX,12a			
Insurance Accounts	Dir.	91/674	Annex IX, 12b		RDO	
Supplementary supervision of insurance undertaking	Dir.	98/78	Annex IX, 12c	LFN	LFN	LFN
Insurance Intermediary	Dir.	77/92	Annex IX,13			

Meaning of shades:

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Partial implementation:



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Non implementation:



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Stock Exchange and Securities				ISL	LIE	NOR
Admission of Securities to Stock Exchange Listing	Dir.	79/279	Annex IX,24		NNN	
Listing Particulars to be Published	Dir.	80/390	Annex IX,25		NNN	
Amending LPD	Dir.	94/18	Annex IX,25		NNN	NNN
Disclosure of Information by Listed Companies	Dir.	82/121	Annex IX,26		NNN	
Major Holdings in Listed Companies	Dir.	88/627	Annex IX,27			
Requirements for Prospectuses on Public Offerings	Dir.	89/298	Annex IX,28			
Insider Dealing	Dir.	89/592	Annex IX,29			
UCITS	Dir.	85/611	Annex IX,30			
Capital Adequacy	Dir.	93/6	Annex IX,30a		PRE	
Amendments to the Capital Adequacy Directive (CAD)	Dir.	98/31	Annex IX,30a			
Investment Services	Dir.	93/22	Annex IX,30b			
Investor Compensation Scheme	Dir.	97/9	Annex IX,30c		LFN	

						
Audio-Visual Services				ISL	LIE	NOR
Television Without Frontiers	Dir.	89/552	Annex X, 1			
New Television Without Frontiers	Dir.	97/36	Annex X, 1			
Standards for Television Signals	Dir.	95/47	Annex X, 1a	LFN		

IMPLEMENTATION STATUS OF DIRECTIVES

					
			ISL	LIE	NOR
Telecommunication Services					
Frequency Bands for Mobile Communications	Dir.	87/372 Annex XI, 1			
Open Network Provision Framework	Dir.	90/387 Annex XI, 2			
Cable Network Legal Separation	Dir.	1999/64 Annex XI, 3	LFN	LFN	
Competition in Telecom Services	Dir.	90/388 Annex XI, 3			
Cable Networks	Dir.	95/51 Annex XI, 3			
Full Competition	Dir.	96/19 Annex XI, 3			
Mobile Telephony	Dir.	96/2 Annex XI, 3			
Competition in Satellite Telecom Services	Dir.	94/46 Annex XI, 3			
Frequency Bands for Public Radio Paging	Dir.	90/544 Annex XI, 4			
Frequency Band for DECT	Dir.	91/287 Annex XI, 5			
ONP Leased Lines	Dir.	92/44 Annex XI, 5b			
1997 Amendment to ONP Framework and Leased Lines	Dir.	97/51 Annex XI, 2 & 5b			
1998 ONP Voice Telephony	Dir.	98/10 Annex XI, 5c			
Licencing Directive	Dir.	97/13 Annex XI, 5cc			
Interconnection Directive	Dir.	97/33 Annex XI, 5cb			LFN
Number Portability and Carrier Pre-selection	Dir.	98/61 Annex XI, 5cb			
Telecom sector data protection and privacy	Dir.	97/66 Annex XI, 5f			
Competition in Telecom Terminal Equipment	Dir.	88/301 Annex XIV, 12			
					
Information Services			ISL	LIE	NOR
Protection of personal data	Dir.	95/46 Annex XI, 5e			
					
Postal Services			ISL	LIE	NOR
Postal Services	Dir.	97/67 Annex XI, 5d			
					
Inland Transport			ISL	LIE	NOR
Minimum examination requirement for safety advisor	Dir.	2000/18 Annex XIII			
Combined Transport of Goods	Dir.	92/106 Annex XIII, 13	NNN		
Safety Advisers for Dangerous Goods	Dir.	96/35 Annex XIII, 13a	LFN		
					
Road Transport			ISL	LIE	NOR
Maximum Dimensions and Weights in Road Transport	Dir.	96/53 Annex XIII, 15a			
1999 Roadworthiness Tests	Dir.	1999/52 Annex XIII, 16a			
1996 Roadworthiness Tests	Dir.	96/96 Annex XIII, 16a			

Road Transport (cont.)					 ISL	 LIE	 NOR
Tread Depth of Tyres	Dir.	89/459	Annex XIII, 17				
Safety Belts	Dir.	91/671	Annex XIII, 17a				
Speed Limitation Devices	Dir.	92/6	Annex XIII, 17b				
Checks on the transport of dangerous goods	Dir.	95/50	Annex XIII, 17d				
1999 Amendm - Transport of Dangerous Goods by Road	Dir.	1999/47	Annex XIII, 17e	LFN			
Road Transport of Dangerous Goods	Dir.	94/55	Annex XIII, 17e				
Amendment 1996 to Road Transp. of Dangerous Goods	Dir.	96/86	Annex XIII, 17e				
Fuel in Fuel Tanks	Dir.	68/297	Annex XIII, 18				
Taxes on Vehicles for Road Transport of Goods	Dir.	93/89	Annex XIII, 18a				
Admission and Mutual Recognition in Road Transport	Dir.	96/26	Annex XIII, 19				
Admission to occupation of road haulier	Dir.	98/76	Annex XIII, 19				
Minimum Level of Training in Road Transport	Dir.	76/914	Annex XIII, 22				
Standard Checking Procedures in Road Transport	Dir.	88/599	Annex XIII, 23				
Driving Licences	Dir.	91/439	Annex XIII, 24a				
Amendment 1996 to Driving Licences (Model)	Dir.	96/47	Annex XIII, 24a		LFN		
Amendment 1997 to Driving Licences	Dir.	97/26	Annex XIII, 24a				
First Carriage of Goods by Road	Dir.	62/2005	Annex XIII, 25				
Vehicles Hired Without Drivers	Dir.	84/647	Annex XIII, 29	NNN			
Rail Transport					 ISL	 LIE	 NOR
Development of Railways	Dir.	91/440	Annex XIII, 37	NNN	NNN		
Trans-European High-speed Rail System	Dir.	96/48	Annex XIII, 37	NNN	NNN		
Railway Infrastructure and Charging of Fees	Dir.	95/19	Annex XIII, 41a	NNN	NNN		
Licencing of Railways	Dir.	95/18	Annex XIII, 42a	NNN	NNN		
1999 Amendm – Transport of Dangerous Goods by Rail	Dir.	1999/48	Annex XIII, 42b	NNN	NNN		
Transport of Dangerous Goods by Rail	Dir.	96/49	Annex XIII, 42b	NNN	NNN		
Amendment 1996 to Dangerous Goods by Rail	Dir.	96/87	Annex XIII, 42b	NNN	NNN		
Transport by Inland Waterways					 ISL	 LIE	 NOR
Chartering & Pricing in Inland Waterway Transport	Dir.	96/75	Annex XIII, 45c	NNN	NNN	NNN	
Access to Occupation in Inland Waterways	Dir.	87/540	Annex XIII, 46	NNN	NNN	NNN	
Boatmasters' Certificates in Inland Waterways	Dir.	91/672	Annex XIII, 46a	NNN	NNN	NNN	
Inland Waterway Boatmasters' Certificate Directive	Dir.	96/50	Annex XIII, 46a	NNN	NNN	NNN	
Technical Requirements in Inland Waterways Vessels	Dir.	82/714	Annex XIII, 47	NNN	NNN	NNN	
Navigability Licences for Inland Waterway Vessels	Dir.	76/135	Annex XIII, 48	NNN	NNN	NNN	

Meaning of shades:

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Partial implementation:



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IMPLEMENTATION STATUS OF DIRECTIVES

						
				ISL	LIE	NOR
Maritime Transport						
Pilotage in North Sea and English Channel	Dir.	79/115	Annex XIII, 54		NNN	
Seafarer Minimum Training	Dir.	94/58	Annex XIII, 54a		NNN	
1998 Amendment to Minimum Training for Seafarers	Dir.	98/35	Annex XIII, 54a	LFN	NNN	
Vessels Carrying Dangerous Goods	Dir.	93/75	Annex XIII, 55a		NNN	PRE
1996 Amendm. Vessels Carrying Dangerous Goods	Dir.	96/39	Annex XIII, 55a		NNN	
1997 Amendm. Vessels Carrying Dangerous Goods	Dir.	97/34	Annex XIII, 55a		NNN	
1998 Amendm Vessels Carrying Dangerous Goods	Dir.	98/55	Annex XIII, 55a		NNN	
1998-2 Amendm. Vessels Carrying Dangerous Goods	Dir.	98/74	Annex XIII, 55a		NNN	
Ship Inspection and Survey	Dir.	94/57	Annex XIII, 55b		NNN	
1997 Amendment to Ship Inspection and Survey	Dir.	97/58	Annex XIII, 55b		NNN	
1999 Amending Port State Control Directive	Dir.	1999/97	Annex XIII, 56b		NNN	
Port State Control	Dir.	95/21	Annex XIII, 56b		NNN	PRE
1998 Amendment Port State Control	Dir.	98/25	Annex XIII, 56b		NNN	
Second Amendment 1998 – Port State Control	Dir.	98/42	Annex XIII, 56b		NNN	
Identity Card for Port State Control	Dir.	96/40	Annex XIII, 56ba		NNN	
Operation of Passenger Craft Services	Dir.	1999/35	Annex XIII, 56ca		NNN	
Marine Equipment	Dir.	96/98	Annex XIII, 56d	RDO	NNN	
Marine Equipment, 1998 Amendment	Dir.	98/85	Annex XIII, 56d	LFN	NNN	
Registration of passengers on ships	Dir.	98/41	Annex XIII, 56e		NNN	
Safety on passenger ships	Dir.	98/18	Annex XIII, 56f	LFN	NNN	
1999 Amendment to Safety Onboard Fishing Vessels	Dir.	1999/19	Annex XIII, 56g		NNN	
Safety Regime for Fishing Vessels	Dir.	97/70	Annex XIII, 56g		NNN	
						
Aviation				ISL	LIE	NOR
Groundhandling Directive	Dir.	96/67	Annex XIII, 64c		TRP	
Aviation-Procurement of ATM Equipment	Dir.	93/65	Annex XIII, 66c	NNN	TRP	
Aviation-Procurement of ATM Equipment, amendment I	Dir.	97/15	Annex XIII, 66c	NNN	TRP	
Chapter II Aeroplanes-Noise	Dir.	92/14	Annex XIII, 66e		NNN	
Investigation of Civil Aviation Accidents	Dir.	94/56	Annex XIII, 66d		TRP	
Chapter II Aeroplanes-Noise-Amendment	Dir.	98/20	Annex XIII, 66d		NNN	
Chapter II Aeroplanes-Noise-Amendment 99	Dir.	1999/28	Annex XIII, 66e		NNN	
Aviation-Mutual Acceptance of Licences	Dir.	91/670	Annex XIII, 68a		TRP	
						
Transport - Other				ISL	LIE	NOR
Eigth Summertime	Dir.	97/44	Annex XIII, 68b	NNN		

						
Free Movement of Capital				ISL	LIE	NOR
Capital Movements	Dir.	88/361	Annex XII	RDO		LFN
Health and Safety at Work				ISL	LIE	NOR
Exposure to Vinyl Chloride Monomer at Work	Dir.	78/610	Annex XVIII,2			
Exposure to Chemical, Physical & Biological Agents	Dir.	80/1107	Annex XVIII,3			
Indicative Limit Values	Dir.	91/322	Annex XVIII, 3a			PRE
Second List of Indicative Limit Values	Dir.	96/94	Annex XVIII, 3b			
Exposure to Metallic Lead at Work	Dir.	82/605	Annex XVIII,4			
Asbestos	Dir.	83/477	Annex XVIII,5			
Exposure to Noise at Work	Dir.	86/188	Annex XVIII,6			
Banning of Certain Agents and Work Activities	Dir.	88/364	Annex XVIII,7			
Improvement of Safety and Health at Work	Dir.	89/391	Annex XVIII,8			
Safety and Health Requirements for the Workplace	Dir.	89/654	Annex XVIII,9			
Work Equipment	Dir.	89/655	Annex XVIII,10			
Amendment 1995 to Work Equipment	Dir.	95/63	Annex XVIII,10			
Protective Equipment	Dir.	89/656	Annex XVIII,11			
Manual Handling of Loads	Dir.	90/269	Annex XVIII,12			
Display Screen Equipment	Dir.	90/270	Annex XVIII,13			
Carcinogens at Work	Dir.	90/394	Annex XVIII,14			PRE
Amendment 1997 to Carcinogens at Work	Dir.	97/42	Annex XVIII,14			
Biological Agents	Dir.	90/679	Annex XVIII,15			PRE
Amendment 1993 to Biological Agents	Dir.	93/88	Annex XVIII,15			PRE
Amendment 1995 to Biological Agents	Dir.	95/30	Annex XVIII,15			PRE
Amendment 1997 No 1 to Biological Agents	Dir.	97/59	Annex XVIII,15			PRE
Amendment 1997 No 2 to Biological Agents	Dir.	97/65	Annex XVIII,15			PRE
Short-term Employment	Dir.	91/383	Annex XVIII,16			
Medical Treatment on board Vessels	Dir.	92/29	Annex XVIII,16a		NNN	RDO
Temporary or Mobile Construction Sites	Dir.	92/57	Annex XVIII,16b		LFN	
Safety and Health Signs at Work	Dir.	92/58	Annex XVIII,16c			
Pregnant and Breastfeeding Workers	Dir.	92/85	Annex XVIII,16d			
Mineral-Extracting Industries (Drilling)	Dir.	92/91	Annex XVIII,16e			
Surface and Underground Mineral-Extracting Ind.	Dir.	92/104	Annex XVIII,16f		NNN	
Work on board Fishing Vessels	Dir.	93/103	Annex XVIII,16g		NNN	

Meaning of shades:

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Partial implementation:



Full implementation notified*:



Non-implementation:












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IMPLEMENTATION STATUS OF DIRECTIVES

						
				ISL	LIE	NOR
Labour Law						
Collective Redundancies	Dir.	98/59	Annex XVIII,22			
Transfer of Undertakings	Dir.	77/187	Annex XVIII,23			
Employer's Insolvency	Dir.	80/987	Annex XVIII,24			
Employer's Information Obligation	Dir.	91/533	Annex XVIII,25			
European Works Councils	Dir.	94/45	Annex XVIII,27			
Amendment 1997 (UK) to European Works Councils	Dir.	97/74	Annex XVIII,27			
Working Time	Dir.	93/104	Annex XVIII,28	PRE	LFN	PRE
Protection of Young People	Dir.	94/33	Annex XVIII,29		LFN	PRE
Posting of Workers	Dir.	96/71	Annex XVIII,30			
Part-Time Work	Dir.	97/81	Annex XVIII,31	TRP	TRP	TRP
Amendment 1998 (UK) to Part-Time Work	Dir.	98/23	Annex XVIII,31	NNN	NNN	NNN
Parental Leave	Dir.	96/34	Annex XVIII,32		TRP	
Amendment 1997 (UK) to Parental Leave	Dir.	97/75	Annex XVIII,32	NNN	NNN	NNN
						
Equal Treatment for Men and Women				ISL	LIE	NOR
Equal Pay	Dir.	75/117	Annex XVIII, 17			
Equal Access to Work	Dir.	76/207	Annex XVIII, 18			
Equal Social Security	Dir.	79/7	Annex XVIII, 19			
Equal Occupational Schemes	Dir.	86/378	Annex XVIII, 20			
Amendment 1996 to Equal Occupational Schemes	Dir.	96/97	Annex XVIII, 20			
Equal Treatment of Self-employed	Dir.	86/613	Annex XVIII, 21			
Burden of Proof – UK	Dir.	98/52	Annex XVIII, 21a	NNN	NNN	NNN
						
Consumer Protection				ISL	LIE	NOR
Amending Directives on Indication of Prices	Dir.	95/58	Annex XIX,1	NNN	NNN	NNN
Indication of Product Prices	Dir.	98/6	Annex XIX,1a			
Misleading Advertising	Dir.	84/450	Annex XIX,2			
Misleading Advertising - Comparative Advertising	Dir.	97/55	Annex XIX,2			LFN
Contracts Outside Business Premises	Dir.	85/577	Annex XIX,3			
Distance Selling	Dir.	97/7	Annex XIX,3a		LFN	LFN
Consumer Credit	Dir.	87/102	Annex XIX,4			
Consumer Credit	Dir.	98/7	Annex XIX,4			
Dangerous Imitations	Dir.	87/357	Annex XIX,5			
Package Travel	Dir.	90/314	Annex XIX,7			
Unfair Terms	Dir.	93/13	Annex XIX,7a			
Purchase of Immovables on Timeshare Basis	Dir.	94/47	Annex XIX,7b			

						
Environment - General				ISL	LIE	NOR
Environment Impact Assessment amendment	Dir.	97/11	Annex XX,, 1			
Environment Impact Assessment	Dir.	85/337	Annex XX, 1			
Information on the Environment	Dir.	90/313	Annex XX, 2			
Reports on Implementation	Dir.	91/692	Annex XX, 2a	NNN	NNN	NNN
Integrated Pollution Prevention and Control	Dir.	96/61	Annex XX,2g			

						
Environment - Water				ISL	LIE	NOR

Surface Water Intended for Drinking Water	Dir.	75/440	Annex XX, 3			
Certain Dangerous Substances Discharged into Water	Dir.	76/464	Annex XX, 4			
Sampl/Anal. of Surf. Water intend. for Drink. Wtr	Dir.	79/869	Annex XX, 5			
Protection of Groundwater	Dir.	80/68	Annex XX, 6			
Quality of Water for Human Consumption	Dir.	80/778	Annex XX, 7			
Mercury Disch. by the Chlor-Alk Electrol. Industry	Dir.	82/176	Annex XX, 8			
Cadmium Discharges	Dir.	83/513	Annex XX, 9			
Mercury Discharges by other Sectors	Dir.	84/156	Annex XX, 10			
Discharges of Hexachlorocyclohexane	Dir.	84/491	Annex XX, 11			
Limit Values and Quality Objectives for Discharges	Dir.	86/280	Annex XX, 12			
Urban Waste Water Treatment	Dir.	91/271	Annex XX, 13			
Urban Waste Water Amendment	Dir.	98/15	Annex XX, 13			
Protection of Waters Against Nitrates	Dir.	91/676	Annex XX, 13a			

						
Environment – Air				ISL	LIE	NOR

Air Quality Standards for Sulphur Dioxide	Dir.	80/779	Annex XX, 14			
Ambient Air Quality Assessment and Management	Dir.	96/62	Annex XX, 14a			
Lead in the Air	Dir.	82/884	Annex XX, 15			
Air Pollution from Industrial Plants	Dir.	84/360	Annex XX, 16			
Air Quality Standards for Nitrogen Dioxide	Dir.	85/203	Annex XX, 17			
Pollution by Asbestos	Dir.	87/217	Annex XX, 18			
Large Combustion Plants	Dir.	88/609	Annex XX, 19	NNN	NNN	NNN
Amendment to Large Combustion Plants	Dir.	94/66	Annex XX, 19	NNN	NNN	NNN
New Waste Incineration Plants	Dir.	89/369	Annex XX, 20			
Existing Waste Incineration Plants	Dir.	89/429	Annex XX, 21		NNN	
Air Pollution by Ozone	Dir.	92/72	Annex XX, 21a			
Incineration of Hazardous Waste	Dir.	94/67	Annex XX, 21b		NNN	

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Environment - Biotechnology etc.			ISL	LIE	NOR
Control of major-accident hazards	Dir.	96/82 Annex XX, 23a			
Contained Use of Genetically Modified Organisms	Dir.	90/219 Annex XX, 24			
Contained Use of GMO's Amendment	Dir.	94/51 Annex XX, 24			
Deliberate Release of GMO's	Dir.	90/220 Annex XX, 25			
Technical Progress Adaptation-GMO's	Dir.	94/15 Annex XX, 25			
Environment - Waste					
			ISL	LIE	NOR
Disposal of Waste Oils	Dir.	75/439 Annex XX, 26			
Waste Framework	Dir.	75/442 Annex XX, 27			
Waste from the Titanium Dioxide Industry	Dir.	78/176 Annex XX, 28		NNN	
Surv. & Monit. of Waste from the Titan. Diox. Ind.	Dir.	82/883 Annex XX, 30		NNN	
Sewage Sludge	Dir.	86/278 Annex XX, 32			
Hazardous Waste	Dir.	91/689 Annex XX, 32a			
Amendment to Hazardous Waste	Dir.	94/31 Annex XX, 32a	NNN	NNN	NNN
Pollution from Titanium Dioxide Industry	Dir.	92/112 Annex XX, 32b		NNN	
Public Procurement					
			ISL	LIE	NOR
Abolition of restrictions etc. – Public works	Dir.	71/304 Annex XVI,1			
Public works contracts – Authorities	Dir.	93/37 Annex XVI,2			
Public procurement directive (GPA)	Dir.	97/52 Annex XVI,2	LFN		
Public supply contracts – Authorities	Dir.	93/36 Annex XVI,3			
Utilities (supply, service and works contracts)	Dir.	93/38 Annex XVI,4			
Utilities procurement directive (GPA)	Dir.	98/4 Annex XVI,4	LFN		
Legal remedies - Authorities	Dir.	89/665 Annex XVI,5	PRE		
Legal remedies – Utilities	Dir.	92/13 Annex XVI,5a	PRE		
Public service contracts – Authorities	Dir.	92/50 Annex XVI,5b			
Company Law - Basic					
			ISL	LIE	NOR
First Company Law	Dir.	68/151 Annex XXII,1		RDO	LFN
Second Company Law	Dir.	77/91 Annex XXII,2		RDO	PRE
Amendment to Second Company Law	Dir.	92/101 Annex XXII,2		RDO	PRE
Third Company Law	Dir.	78/855 Annex XXII,3		RDO	PRE
Sixth Company Law	Dir.	82/891 Annex XXII,5		NNN	PRE
Eleventh Company Law	Dir.	89/666 Annex XXII,8		RDO	PRE
Twelfth Company Law	Dir.	89/667 Annex XXII,9		RDO	

Company Law - Accounting						
				ISL	LIE	NOR
Amendment to Fourth Company Law Directive	Dir.	1999/60	Annex XXII, 4			
Fourth Company Law	Dir.	78/660	Annex XXII,4	LFN	RDO	PRE
Amendment to Fourth Company Law Directive	Dir.	94/8	Annex XXII, 4		RDO	NNN
Seventh Company Law	Dir.	83/349	Annex XXII,6	PRE	RDO	PRE
Eighth Company Law	Dir.	84/253	Annex XXII,7	LFN	RDO	PRE
State Aid						
				ISL	LIE	NOR
Transparency Directive	Dir.	80/723	Annex XV,1		NNN	
Amendment to Transparency Directive	Dir.	93/84	Annex XV,1		NNN	
Shipbuilding Directive	Dir.	90/684	Annex XV,1b	NNN	NNN	NNN
Statistics						
				ISL	LIE	NOR
Business Cycle in Building and Civil Engineering	Dir.	78/166	Annex XXI,4		NNN	
Regional Statistics - Carriage of Goods by Road	Dir.	78/546	Annex XXI,5		NNN	
Statistics on Carriage of Goods - Inland Waterways	Dir.	80/1119	Annex XXI,6		NNN	
Regional Statistics - Carriage of Goods by Rail	Dir.	80/1177	Annex XXI,7		NNN	
Sts. Return - Carriage of Goods & Pass. by Sea	Dir.	95/64	Annex XXI,7b		NNN	
Collection of STS Information in Tourism	Dir.	95/57	Annex XXI,7c		NNN	
Harmonization of GNP at Market Prices	Dir.	89/130	Annex XXI,19		NNN	
Statistical Surveys of Milk and Milk Products	Dir.	96/16	Annex XXI,21		NNN	
Transparency of Gas and Electricity prices	Dir.	90/377	Annex XXI,26		NNN	

Meaning of shades:

No duty to implement:



Partial implementation:



Full implementation notified*:



Non-implementation:



(*) Does not include Directives which the EFTA States have notified as fully implemented, but which the Authority deems not to have been implemented, or to have been only partially implemented.

Meaning of abbreviations:

NNN: No measures necessary
PRE: Pre Article 31 letter
TRP: Transition period
LFN: Letter of formal notice
PWH: Permanent derogation for the whole act
RDO: Reasoned opinion
EFC: Referral to EFTA Court
SPA: Specific adaptation

(*) Does not include Directives which the EFTA States have notified as fully implemented, but which the Authority deems not to have been implemented, or to have been only partially implemented.

Annex 5 EFTA Surveillance Authority

A comparative list of applicable notices adopted by the European Commission and the Authority in the field of competition

Topic	EFTA Surveillance Authority Notice	Commission Notice
Mergers and joint ventures	Notice regarding restrictions ancillary to concentrations <i>OJ L 153, 18.6.1994, p.3 and EEA Supplement to the OJ No 15, 18.6.1994, p.2</i>	Notice regarding restrictions ancillary to concentrations <i>OJ C 203, 14.8.1990, p.5</i>
	Not adopted	Notice on the concept of full-function joint ventures under Council Regulation (EEC) No 4064/89 on the control of concentrations between undertakings <i>OJ C 66, 2.3.1998, p.1</i>
	Not adopted	Notice on the concept of concentration under Council Regulation (EEC) No 4064/89 on the control of concentration between undertakings <i>OJ C 66, 2.3.1998, p.5</i>
	Not adopted	Notice on the concept of undertakings concerned under Council Regulation (EEC) No 4064/89 on the control of concentrations between undertakings <i>OJ C 66, 2.3.1998, p.14</i>
	Not adopted	Notice on the calculation of turnover under Council Regulation (EEC) No 4064/89 on the control of concentrations between undertakings <i>OJ C 66, 2.3.1998, p.25</i>
	Not adopted	Notice concerning alignment of procedures for processing mergers under the ECSC and EC Treaties <i>OJ C 66, 2.3.1998, p.36</i>
	Not adopted	Information on the assessment of full-function joint ventures pursuant to the competition rules of the European Community <i>OJ C 66, 2.3.1998, p.38</i>
	Not adopted	Notice on simplified procedure for treatment of certain concentrations under Council Regulation (EEC) No 4064/89 <i>OJ C 217, 29.7.2000, p.32</i>
	Not adopted	Notice on remedies acceptable under Council Regulation (EEC) No 4069/89 and under Commission Regulation (EC) No 447/98 Adopted on 21.12.2000 (not yet published)
Vertical agreements	Not adopted	Guidelines on vertical restraints. <i>OJ C 291, 13.10.2000, p.1</i>

(1) The preparation by the Authority of non-binding acts corresponding to those adopted by the European Commission is subject to internal resource allocation. As explained in paragraph 5.1.1. it is unlikely that a merger falling under the competence of the Authority will occur. Thus, the Authority has given lowest priority to the adoption of notices in the field of concentrations. In the interim the Authority intends to apply the principles set out in the Commission notices whenever relevant.

Topic	EFTA Surveillance Authority Notice	Commission Notice
Horizontal agreements	Not adopted	Guidelines on the applicability of Article 81 to horizontal co-operation agreements. <i>OJ C 3, 6.1.2001, p.2</i>
Exclusive purchasing and distribution (ceased to apply 31 may 2000)	Notice concerning the acts referred to in points 2 and 3 of Annex XIV to the EEA Agreement (Commission Reg. (EEC) No 1983/83 and (EEC) No 1984/83 on the application of Art. 53(3) of the EEA Agreement to categories of exclusive distribution and purchasing agreements <i>OJ L 153, 18.6.1994, p.13 and EEA Supplement to the OJ No 15, 18.6.1994, p.12</i>	Notice concerning Commission Regulations (EEC) No 1983/83 and (EEC) No 1984/83 of 22 June 1983 on the application of Article 85(3) of the Treaty to categories of exclusive distribution and exclusive purchasing agreements <i>OJ C 101, 13.4.1984, p.2</i>
	Notice modifying the notice concerning the acts referred to in points 2 and 3 of Annex XIV to the EEA Agreement (Commission Reg. (EEC) No 1983/83 and (EEC) No 1984/83) on the application of Article 53(3) of the EEA Agreement to categories of exclusive distribution and purchasing agreements <i>OJ L 186, 21.7.1994, p.69 and EEA Supplement to the OJ No 22, 21.7.1994, p.17</i>	Notice modifying the notice concerning Commission Regulations (EEC) No 1983/83 and (EEC) No 1984/83 of 22 June 1983 on the application of Article 85(3) to categories of exclusive distribution and purchasing agreements <i>OJ C 121, 13.5.1992, p.2</i>
Motor vehicle distribution and servicing agreements	Notice concerning the act referred to in point 4 of Annex XIV to the EEA Agreement (Reg. (EEC) No 123/85) on the application of Article 53(3) of the EEA Agreement to certain categories of motor vehicle distribution and servicing agreements <i>OJ L 153, 18.6.1994, p.20 and EEA Supplement to the OJ No 15, 18.6.1994, p.19</i>	Notice concerning Regulation (EEC) No 123/85 of 12 December 1984 on the application of Article 85(3) to certain categories of motor vehicle distribution and servicing agreements <i>OJ C 17, 18.1.1985, p.4</i>
	Notice clarifying the activities of motor vehicle intermediaries <i>OJ L 186, 21.7.1994, p.70 and EEA Supplement to the OJ No 22, 21.7.1994, p.18</i>	Notice clarifying the activities of motor vehicle intermediaries <i>OJ C 329, 18.12.1991, p.30</i>
Imports from third countries	Notice concerning imports into the territory covered by the EEA Agreement of third countries' goods falling within the scope of the EEA Agreement <i>OJ L 153, 18.6.1994, p.29 and EEA Supplement to the OJ No 15, 18.6.1994, p.28</i>	Notice concerning imports into the Community of Japanese goods falling within the scope of the Rome Treaty <i>OJ C 111, 21.10.1972, p.13</i>
Subcontracting agreements	Notice of the EFTA Surveillance Authority concerning its assessment of certain subcontracting agreements in relation to Article 53(1) of the EEA Agreement <i>OJ L 153, 18.6.1994, p.30 and EEA Supplement to the OJ No 15, 18.6.1994, p.29</i>	Commission Notice of 18 December 1978 concerning its assessment of certain subcontracting agreements in relation to Article 85(1) of the EEC Treaty <i>OJ C 1, 3.1.1979, p.2</i>
Agreements of minor importance	Notice on agreements of minor importance which do not fall under Article 53(1) of the EEA Agreement <i>OJ L 200, 16.7.1998, p.55 and EEA Supplement to the OJ No 28, 16.7.1998, p.13</i>	Notice on agreements of minor importance which do not fall under Article 85(1) of the Treaty establishing the European Community <i>OJ C 372, 9.12.1997, p.13</i>
Definition of the relevant market	Notice on the definition of the relevant market for the purpose of competition law within the EEA <i>OJ L 200, 16.7.1998, p.48 and EEA Supplement to the OJ No 28, 16.7.1998, p.3</i>	Notice on the definition of the relevant market for the purposes of Community competition law <i>OJ C 372, 9.12.1997, p.5</i>
Cross-border credit transfers	Notice on the application of the EEA competition rules to cross-border credit transfers <i>OJ C 301, 2.10.1997, p.7 and EEA Supplement to the OJ No 41, 2.10.1997, p.43</i>	Notice on the application of the EC competition rules to cross-border credit transfers <i>OJ 1995 C 251, p.3</i>

Topic	EFTA Surveillance Authority Notice	Commission Notice
Access to the file	Not adopted	Notice on the internal rules of procedure for processing requests for access to the file in cases pursuant to Articles 85 and 86 of the EC Treaty, Articles 65 and 66 of the ECSC Treaty and Council Regulation (EEC) No 4064/89 <i>OJ C 23, 23.1.1997, p.3</i>
Fines	Notice on the non-imposition or reduction of fines in cartel cases <i>OJ C 282, 18.9.1997, p.8 and EEA Supplement to the OJ No 39, 18.9.1997, p.1</i>	Notice on the non-imposition or reduction of fines in cartel cases <i>OJ C 207, 18.7.1994, p.4</i>
	Not adopted	Guidelines on the method of setting fines imposed pursuant to Article 15(2) of Regulation No 17 and Article 65(5) of the ECSC Treaty <i>OJ C 9, 14.7.1998, p.3</i>
Co-operation with national courts	Notice on co-operation between national courts and ESA in applying Articles 53 and 54 to the EEA Agreement <i>OJ C 112, 4.5.1995, p.7 and EEA Supplement to the OJ No 16, 4.5.1995, p.1</i>	Notice on co-operation between national courts and the Commission in applying Articles 85 and 86 of the EEC Treaty <i>OJ C 39, 13.2.1993, p.6</i>
Co-operation with national competition authorities	Notice on co-operation between national competition authorities and the EFTA Surveillance Authority in handling cases falling within the scope of Articles 53 and 54 of the EEA Agreement. Adopted 22 May 2000. <i>OJ C 307, 12.12.2000, p.6 and EEA Supplement to the OJ No 1, 12.12.2000, p.5</i>	Notice on co-operation between national competition authorities and the Commission in handling cases falling within the scope of Articles 85 or 86 of the EC Treaty <i>OJ C 313, 15.10.1997, p.3</i>
Postal sector	Not adopted	Notice on the application of the competition rules to the postal sector and on the assessment of certain state measures relating to postal services <i>OJ C 39, 6.2.1998, p.2</i>
Telecommunications	Guidelines on the application of EEA competition rules in the telecommunications sector <i>OJ L 153, 18.6.1994, p.35 and EEA Supplement to the OJ No 5, 18.6.1994, p.34</i>	Guidelines on the application of the EEC competition rules in the telecommunication sector <i>OJ C 233, 6.9.1991, p.2</i>
	Not adopted	Notice on the application of the competition rules to access agreements in the telecommunications sector <i>OJ C 265, 22.8.1998, p.2</i>
Aviation	Not adopted	Notice concerning procedures for communications to the Commission pursuant to Articles 4 and 5 of Commission Regulation (EEC) No 1617/93 of 25 June 1993 on the application of Article 85(3) to certain categories of agreements, decisions and concerted practices concerning joint planning and co-ordination of schedules, joint operations, consultations on passenger and cargo tariffs on scheduled air services and slot allocation at airports. <i>OJ C 177, 29.6.1993, p.4</i>

Annex 6 EFTA Surveillance Authority

A comparative list of notices adopted by the European Commission and the Authority in the field of State aid

Topic	EFTA Surveillance Authority	European Commission
Procedures General	OJ L 231, 03.09.1994, EEA Supplement 32 Amended 06.12.95, OJ L 124, 23.05.1996, EEA Supplement 23	Commission Communications and letters listed in points 2-7 and 10 of Annex XV to the EEA Agreement, relevant judgements of the European Court of Justice and the Commissions' practice.
Co-operation between national courts and the EFTA Surveillance Authority in the State aid field	OJ L 274, 26.10.2000, EEA Supplement 61	OJ C 312, 23.11.95
Rules on Horizontal Aid		
Aid to small and medium-sized enterprises (SMEs)	OJ L 42, 13.02.1997, EEA Supplement 7	OJ C 213, 23.07.1996
Criteria for applying the accelerated clearance procedure	OJ L 231, 03.09.1994, EEA Supplement 32	OJ C 213, 19.08.1992
The de minimis rule and its application	OJ L 245, 26.09.1996 EEA Supplement 43	OJ C 68, 06.03.1996
Rules applicable to cases of cumulation of aid for different purposes	OJ L 231, 03.09.1994, EEA Supplement 32	OJ C 3, 05.01.1985
Aid for Research and Development	OJ L 245, 26.09.1996, EEA Supplement 43	OJ C 45, 17.02.1996
Aid for environmental protection	OJ L 231, 03.09.1994, EEA Supplement 32	OJ C 72, 10.03.1994
Aid for rescuing and restructuring firms in difficulty	OJ L 274, 26.10.2000, EEA Supplement 48	OJ C 288, 09.10.1999
State guarantees	OJ L 274, 26.10.2000, EEA Supplement 48	OJ C 71, 11.03.2000
Short-term export-credit insurance	OJ L 120, 23.04.1998, EEA Supplement 16	OJ C 281, 17.09.1997
Measures related to direct business taxation	OJ L 137, 8.6.2000	OJ C 384, 10.12.1999
Aid to employment	OJ L 124, 23.05.96, EEA Supplement 23	OJ C 334, 12.12.1995
Aid for training	OJ L 137, 8.6.2000	OJ C 343, 11.11.1999
Sale of land and buildings	OJ L 137, 8.6.2000	OJ C 209, 10.07.1997



Topic	EFTA Surveillance Authority	European Commission
Rules on State Ownership of Enterprises and on Aid to Public Enterprises		
Public authorities' holdings	OJ L 231, 03.09.1994, EEA Supplement 32	EC Bulletin 9-1984
Application of State aid provisions to public enterprises in the manufacturing sector	OJ L 231, 03.09.1994, EEA Supplement 32	OJ C 307, 13.11.1993 and OJ L 254, 12.10.1993
Rules on Sectoral Aid		
Aid to the synthetic fibres industry	OJ L 140, 13.06.1996, EEA Supplement 25	OJ C 94, 30.03.1996 and OJ C 24, 29.01.1999
Aid to the motor vehicle industry	OJ L 112, 11.5.2000	OJ C 279, 15.09.1997
Aid to non-ECSC steel industries	OJ L 231, 03.09.1994, EEA Supplement 32	OJ C 320, 13.12.1988
Aid to maritime transport	OJ L 316, 20.11.1997, EEA Supplement 48	OJ C 205, 05.07.1997
Rules on Regional Aid		
National regional aid	OJ L 111, 29.04.1999, EEA Supplement 18	OJ C 74, 10.03.1998
Multisectoral framework on regional aid for large investment projects	OJ L 111, 29.04.1999, EEA Supplement 18	OJ C 107, 07.04.1998
Specific rules		
General investment aid schemes	OJ L 231, 03.09.1994, EEA Supplement 32	Commission letter to the Member States: SG(79) D/10478, 14.09.1979
Aid to the aviation sector	Reference to the Commission guidelines	OJ C 350, 10.12.1994
Aid to shipbuilding granted as development assistance to a development country	OJ L 135, 8.6.2000	Commission letters to the Member States: SG (89) D/311, 03.01.1989 and SG (97) D/4345, 10.06.1997 OJ C 218, 18.07.1997
Standardized annual reporting	OJ L 231, 03.09.1994, EEA Supplement 32	Commission letter to the Member States: SG (95) D 20506, 02.08.1995
Conversions between national currencies and EURO	OJ L 231, 03.09.1994, EEA Supplement 32	
Reference rate of interest	OJ L 274, 26.10.2000, EEA Supplement 48	OJ C 273, 09.09.97

Explanation of proceedings for non-compliance with EEA law

1. Principles

Each Contracting Party to the EEA Agreement is responsible for the implementation of EEA law (adoption of implementing measures before a specified deadline, conformity and correct application) within its own legal system. Under the EEA Agreement¹ the EFTA Surveillance Authority is responsible for ensuring that EEA law is correctly applied by the EFTA States. Consequently, where an EFTA State fails to comply with EEA law, the Authority has powers of its own (action for non-compliance) to try to bring the infringement to an end and, where necessary, may refer the case to the EFTA Court². The Authority takes whatever action it deems appropriate in response to a possible infringement arising from either a complaint or other source which it detects.

Non-compliance means failure by an EFTA State to fulfil its obligations under EEA law. It may consist either of an action or omission. The term "State" means the Member State, which infringes EEA law, irrespective of the authority - central, regional or local - to which the compliance is attributable.

2. Admissibility of complaints

Anyone may lodge a complaint with the Authority against an EFTA State for any measure (law regulation or administrative action) or practice attributable to an EFTA State, which they consider incompatible with a provision or a principle of EEA law. A *complainant* does not have to demonstrate a formal interest in bringing proceedings. Neither does a complainant have to prove that he/she is principally and directly concerned by the infringement. To be admissible, a complaint must relate to an infringement of EEA law by an EFTA State³. It cannot therefore concern a private dispute.

It is very important for the complaint to be complete and accurate, particularly as regards the facts complained of in relation to the EFTA State in question, any steps that a complainant has already taken at any level and, as far as possible, the provisions of EEA law which a complainant considers to have been infringed.

3. Stages of infringement proceedings

In infringement proceedings, a case may be handled in the following stages:

3.1 Information gathering

In response to a complaint, it may be necessary to gather further information to determine the points of facts and of law concerning each case. Should the Authority contact the authorities of the EFTA State against which a complaint has been made, it will not disclose the complainant's identity unless he/she has given it express permission to do so. If necessary, the complainant will be asked to supply further information.

After examining the facts and in light of the rules and priorities established by the Authority for opening and pursuing infringement proceedings, the Authority will decide whether further action should be taken on a complaint.

3.2 Opening of an infringement procedure: formal contacts between the Authority and the EFTA State concerned

If the Authority considers that there may be an infringement of EEA law, which warrants the opening of an infringement procedure, it addresses a "**letter of formal notice**" to the EFTA State concerned, requesting it to submit its observations by a specified date. The EFTA State has to adopt a position on the points of fact and of law on which the Authority bases its decision to open the infringement procedure.

In light of the reply or absence of a reply from the EFTA State concerned, the Authority may decide to address a "**reasoned opinion**" to that State, clearly and definitively setting out the reasons why it considers there to be an infringement of EEA law and calling on the EFTA State to comply with EEA law within a specified time period (normally two months).

The purpose of those formal contacts is to determine whether there is indeed an infringement of EEA law and, if so, to resolve the case at this stage without having to take it to the EFTA Court. In light of the reply, the Authority may also decide not to proceed with the infringement procedure, for example, where the EFTA State provides credible assurances as to its intention to amend its legislation or administrative practice. Most cases can be resolved in this way.

¹ Articles 108 and 109 of the EEA Agreement.

² See mainly Article 31 of the Agreement between the EFTA States on the establishment of a Surveillance Authority and a Court of Justice.

³ It should be noted that if the Authority receives a complaint against an EC State it will pass the complaint to the Commission of the European Communities which is responsible for ensuring that EEA law is correctly applied by the EC Member States. The Authority will inform a complainant of the transfer to the EC Commission.



3.3 Referral to the EFTA Court

If the EFTA State fails to comply with the reasoned opinion, the Authority may decide to bring the case before the EFTA Court. *Normally, the Court will rule on a case, brought by the Authority, within a year.*

Judgments of the EFTA Court differ from those of national courts. At the close of the procedure, the Court delivers a judgment stating whether there has been an infringement. The Court can neither annul a national provision which is incompatible with EEA law, nor force a national administration to respond to the request of an individual, nor order the State to pay damages to an individual adversely affected by an infringement of EEA law.

It is the duty of an EFTA State against which the EFTA Court has given judgment to take whatever measures are necessary to comply with the judgment, and in particular to resolve the dispute, which gave rise to the procedure. If the State does not comply, the Authority may again bring the matter before the EFTA Court *on the grounds of a failure to take the necessary measures to comply with the judgment of the Court.*

4. National remedies

It is national courts and administrative bodies that are primarily responsible for ensuring that the authorities of the EFTA States comply with EEA law.⁴

Therefore, if a complainant considers a particular measure (law, regulation or administrative action) or administrative practice to be incompatible with EEA law he/she should consider, either prior to or in parallel with his/her complaint to the Authority, to use remedy procedures before the national administrative or judicial authorities (including national or regional ombudsmen) and/or through any arbitration and conciliation procedures available. *Where questions on the interpretation of the EEA Agreement are raised before any court or tribunal in an EFTA State, that court or tribunal may request the EFTA Court to give an advisory opinion on the questions*⁵.

By using the means of redress available at the national level a complainant should, as a rule, be able to assert his/her rights more directly and more personally than he/she could following infringement proceedings successfully brought by the Authority, which may take some time. Only national courts can issue orders to administrative bodies and annul a national decision. It is only national courts which have the power, where appropriate, to order a State to make good the loss sustained by individuals as a result of the infringement of EEA law attributable to it.

5. Administrative guarantees

The following administrative guarantees exist for the benefit of a complainant:

- a) Following registration by the Authority, a complaint will be assigned an official reference number (as set out in a letter of acknowledgement to the complainant) which should be quoted on any correspondence. However, the assignment of an official reference number does not necessarily mean that an infringement procedure will be opened against the EFTA State in question.
- b) Where the Authority makes representations to the authorities of the EFTA State against which the complaint has been made, they will abide by the choice a complainant has made regarding confidentiality, i.e. disclosure of his/her identity. Where a complainant has not indicated his/her choice, the Authority will presume that the complainant has opted for non-confidential treatment. In case of confidential treatment it should be borne in mind, however, that the disclosure of the complainant's identity by the Authority may in some cases be indispensable to the handling of the complaint or *may be unavoidable due to the factual circumstances of the complaint*. In case the Authority decides to disclose the identity, the complainant will be informed in advance.
- c) The Authority will endeavour to take a decision on the substance (either to open infringement proceedings or to close the case) within a year of registration of the complaint.
- d) The complainant will be informed in advance by the relevant Directorate of the Authority if it plans to close the case, with the finding that there is no infringement. The Authority will keep the complainant informed of the course of any infringement procedure.

⁴ It should be noted that the EEA Agreement is a part of the EFTA States internal legal order. It was made part of Iceland's national legislation by Law of 13 January 1993 No. 2 and by the Norwegian national legislation by Law of 27 November 1992 No. 109. As Liechtenstein follows a monist tradition the Agreement became part of the national legal order upon entry into force. It was published in the Law Gazette LGBl. 1995 No. 68.

⁵ Article 34 of the Agreement between the EFTA States on the establishment of a Surveillance Authority and a Court of Justice.



EFTA Surveillance Authority 2000.



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