



THE EUROPEAN ECONOMIC AREA (EEA), SWITZERLAND AND THE NORTH

The European Economic Area (EEA) was set up in 1994 to extend the EU's provisions on its internal market to the European Free Trade Area (EFTA) countries. Norway, Iceland and Liechtenstein are parties to the EEA. Switzerland is a member of EFTA but does not take part in the EEA. The EU and EEA partners (Norway and Iceland) are also linked by various 'northern policies' and forums which focus on the rapidly evolving northern reaches of Europe and the Arctic region as a whole.

LEGAL BASIS

For the EEA: Article 217 of the Treaty on the Functioning of the European Union (Association Agreements).

For Switzerland: Insurance Agreement of 1989, Bilateral Agreements I of 1999, Bilateral Agreements II of 2004.

THE EEA

A. Objectives

The purpose of the European Economic Area (EEA) is to extend the EU's internal market to countries in the European Free Trade Area (EFTA). These countries either do not wish to join the EU or have not yet done so. EU legislation relating to the internal market becomes part of the legislation of the EEA countries once they have agreed to incorporate it. Implementation and enforcement are then monitored by specific EFTA bodies and a Joint Parliamentary Committee.

B. Background

In 1992, the then seven members of EFTA negotiated an agreement to allow them to participate in the ambitious project of the European Community's internal market, launched in 1985 and completed at the end of 1992. The European Economic Area (EEA) Agreement was signed on 2 May 1992 and entered into force on 1 January 1994.

The EFTA/EEA members, however, soon saw their numbers reduced: Switzerland chose not to ratify the agreement following a negative referendum on the matter, and Austria, Finland and Sweden joined the European Union in 1995. Only Iceland, Norway and Liechtenstein remained in the EEA. The 10 new Member States that joined the EU on 1 May 2004 automatically became part of the EEA, as did Bulgaria and Romania when they acceded to the Union in 2007, and Croatia in 2013.

In June 2009, Iceland also applied for EU membership as a way out of the global financial crisis of 2008. The Council accepted Iceland's application on 17 June 2010, and the negotiations started in June 2011. However, following the April 2013 parliamentary elections, the new centre-right coalition of the Independence and Progressive parties halted the negotiations

immediately after coming to power in May 2013. Later, in March 2015, the coalition government stated in a letter to the Council of the European Union that ‘Iceland should not be regarded as a candidate country for EU membership’. Although the government did not officially withdraw the application, the presidency of the Council of the EU took note of the letter, and certain practical adjustments have been made within both the Council and the Commission. Accordingly, the EU does not currently treat Iceland as a candidate country.

When the UK withdraws from the EU, it will also leave the EEA. If it wishes to stay in the internal market, it could opt to re-join EFTA and become an EEA member through EFTA. This option is considered unlikely, however, because the UK would then have to accept EU legislation, payments to the EU and the jurisdiction of the Court of Justice of the European Union.

C. Scope of the EEA

The EEA goes beyond traditional free trade agreements (FTAs) by extending the full rights and obligations of the EU’s internal market to the EFTA countries (with the exception of Switzerland). The EEA incorporates the four freedoms of the internal market (free movement of goods, people, services and capital) and related policies (competition, transport, energy, and economic and monetary cooperation). The agreement includes horizontal policies strictly related to the four freedoms: social policies (including health and safety at work, labour law and the equal treatment of men and women); policies on consumer protection, the environment, statistics and company law; and a number of flanking policies, such as those relating to research and technological development, which are not based on the EU *acquis* or legally binding acts, but are implemented through cooperation activities.

D. The limits of the EEA

The EEA Agreement does not establish binding provisions in all sectors of the internal market or in other policies under the EU Treaties. In particular, its binding provisions do not concern:

- The common agricultural policy and the common fisheries policy (although the agreement contains provisions on trade in agricultural and fishery products);
- The customs union;
- The common trade policy;
- The common foreign and security policy;
- The field of justice and home affairs (although all the EFTA countries are part of the Schengen area); or
- The economic and monetary union (EMU).

E. EEA institutions and mechanisms

1. Incorporation of EU legislation

New EU internal market texts are examined by an EEA Joint Committee, composed of representatives of the EU and the three EFTA-EEA states. Meeting once a month, this body decides what legislation — and, more generally, which EU acts (actions, programmes, etc.) — should be incorporated into the EEA. Legislation is formally incorporated by including the relevant acts in lists of protocols and annexes to the EEA Agreement. Several thousand acts have been incorporated into the EEA Agreement in this way. An EEA Council, made up of representatives of the Council of the EU and the Foreign Ministers of the EFTA-EEA states, meets at least twice a year to draw up political guidelines for the Joint Committee.

2. Transposition

Once an EU act has been incorporated into the EEA Agreement, it must be transposed into the national legislation of the EFTA-EEA countries (if this is required under that national legislation). This may simply require a governmental decision, or it may require parliamentary approval. Transposition is a formal task, and the acts can only be adjusted technically at this point. There are provisions specifying that the EFTA countries should be involved in preparing EU acts.

3. Monitoring

After internal market legislation has been extended to the EFTA-EEA countries, transposition and application are monitored by the EFTA Surveillance Authority and the EFTA Court. The EFTA Surveillance Authority maintains an internal market scoreboard that tracks the implementation of legislation in the EEA countries.

4. Role of the parliaments

Both the European Parliament and the national parliaments of the EFTA-EEA states are closely involved in monitoring the EEA Agreement. Article 95 of the agreement establishes an EEA Joint Parliamentary Committee (JPC), which meets twice a year. The European Parliament and the EEA national parliaments take turns hosting this committee, whose chair alternates annually between a Member of the European Parliament and an EEA national parliamentarian. Each delegation is composed of 12 members. Parliamentarians from the Swiss Federal Assembly attend the meetings as observers. All EU legislation that applies to the EEA is scrutinised by the EEA JPC, whose members have the right to put oral and written questions to representatives of the EEA Council and the EEA Joint Committee and to express their views in reports or resolutions. The same procedure holds for scrutinising the implementation of legislation.

SWITZERLAND

As an EFTA member, Switzerland took part in the negotiations for the EEA Agreement and signed the agreement on 2 May 1992. Immediately after that, the Swiss Government submitted an application for accession to the EU on 22 May 1992. However, following a referendum held on 6 December 1992 that yielded a vote against participating in the EEA, the Swiss Federal Council stopped pursuing the country's EU and EEA membership. Since then, Switzerland has developed its relations with the EU through bilateral agreements in order to safeguard its economic integration with the EU. Bilateral relations were severely strained following the February 2014 anti-immigration initiative, the outcome of which called into question the principles of free movement and the single market that underpin those relations. On 16 December 2016, the Swiss Parliament adopted the Law on Foreigners implementing the result of the 2014 referendum in a manner that limited its effect, which paved the way for the beginning of the normalisation of EU-Swiss relations. The law gives priority to Swiss residents in job recruitment in the sectors with above-average unemployment rates. The EU saw modifications to the Law on Foreigners as a step in the right direction and considered that this law could now be implemented in a way that would not restrict the rights of EU citizens under the free movement of persons.

Following the meeting of the Swiss President, Doris Leuthard, and the President of the Commission, Jean-Claude Juncker, in Brussels on 6 April 2017, a positive dynamic developed and work was resumed on a number of ongoing issues. Some bilateral agreements, including the Mutual Recognition Agreement, were updated. In November 2017, the EU and Switzerland signed a new agreement to link their emissions trading systems (ETS) and Switzerland launched

the internal procedure for a new Swiss financial contribution to reducing economic and social disparities in some Member States. At the end of 2017, the Commission adopted Implementing Decision (EU) 2017/2441 recognising trading venues in Switzerland as eligible for compliance with the trading obligation for shares as set out in the new Markets in Financial Instruments Directive (MiFID II) and Regulation (MiFIR), which entered in force on 3 January 2018. However, financial equivalence was granted for one year only and its renewal will depend on progress in the institutional agreement negotiations. Although this decision has strained EU-Swiss relations somewhat, it may also have provided a long overdue boost to the institutional negotiations, which were launched back in spring 2014. The EU and Switzerland have signed over 120 bilateral agreements, including a free trade agreement in 1972 and two major series of sectoral bilateral agreements that aligned a large portion of Swiss law with that of the EU at the time of signing. The first set of sectoral agreements (known as Bilateral I) was signed in 1999 and entered into force in 2002. These seven agreements cover the issues of free movement and mutual market opening^[1]. A further set of sectoral agreements (Bilateral II) was signed in 2004 and entered into force gradually over the 2005-2009 period. These agreements are basically related to strengthening economic cooperation and extending cooperation on asylum and free travel within the Schengen borders^[2].

While the agreements intensified economic relations, they also created a complex and sometimes incoherent network of obligations, which are not easy to sustain. Bilateral agreements are updated regularly. Unlike the EEA Agreement, the nature of the bilateral agreements with Switzerland is static, given that there are no proper mechanisms to adapt the agreements to evolving EU legislation, nor are there any surveillance arrangements or effective dispute settlement mechanisms. In order to resolve these problems, EU-Swiss negotiations for a framework institutional agreement were launched on 22 May 2014. The negotiations are aimed at settling the problems stemming from the evolving nature of the EU acquis related to the internal market and at introducing a dispute settlement mechanism into the current bilateral treaty network. The institutional framework negotiations are crucial, because the Council of the EU is determined not to allow Switzerland any further single market access (e.g. as regards electricity) without this framework agreement, and also because the abovementioned renewal of the MiFID II/MiFIR financial equivalence will be dependent on progress in the negotiations.

NORTHERN POLICIES

The EU is actively involved in a number of policies and forums that focus on the rapidly evolving northern reaches of Europe and on the Arctic region as a whole, in particular by contributing to the following:

- The ‘Northern Dimension’, which has served since 2007 as a common policy for the EU, Russia, Norway and Iceland. This policy complements the EU-Russia dialogue and has led to effective sector partnerships for cooperation in the Baltic and Barents regions. The Northern Dimension includes a parliamentary body — the Northern Dimension Parliamentary Forum — of which the European Parliament is a founding member;
- The Council of the Baltic Sea States (CBSS), launched in 1992 by the EU and the riparian states following the dissolution of the USSR. All CBSS member states participate in the

[1]The seven agreements are on: free movement of people, air transport, land transport, trade in agricultural products, technical trade barriers, public procurement and research cooperation.

[2]These agreements relate to Switzerland’s participation in Schengen and Dublin, agreements on taxation of savings, processed agricultural products, statistics and combating fraud, participation in the EU’s MEDIA programme and the European Environment Agency, and Swiss financial contributions to economic and social cohesion in the new EU Member States.

Baltic Sea Parliamentary Conference (BSPC), of which the European Parliament is also a member;

- Cooperation in the Barents region, which groups the northern regions of Finland, Norway and Sweden and the north-west regions of Russia. It is conducted through the sub-state Barents Regional Council, the interstate Barents Euro-Arctic Council (of which the EU is a member), and a parliamentary conference (of which the European Parliament is a member);
- Circumpolar Arctic affairs: the EU's Arctic policy is based on Commission/EEAS communications (2008, 2012 and 2016), Council conclusions (2009, 2014 and 2016) and European Parliament resolutions (2011 and 2014). A new European Parliament resolution on 'An integrated EU policy for the Arctic' was adopted on 16 March 2017. In 2013, the Arctic Council granted the EU the right to attend its meetings. However, it has still not decided about its 2008 request for formal observer status. The European Parliament is a member of the Conference of Arctic Parliamentarians;
- Participation of the European Parliament in the annual sessions of the Nordic Council, to which it is regularly invited. In addition to this, delegations from the European Parliament and the West Nordic Council (made up of parliamentarians from the Faroe Islands, Greenland and Iceland) meet once a year.

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