European Parliament Fact Sheets

6.3.2. The European Economic Area (EEA)

LEGAL BASIS

Article 310 of the EC Treaty (Association Agreements).

OBJECTIVES

The purpose of the EEA is to extend the EC's single market to include a number of countries in the European Free Trade Area that do not wish to join the European Union or are not yet ready to do so.

ACHIEVEMENTS

1. **Origin and background**
    1. **Initial context**
       The initial context relates to the relations between the European Community and EFTA. In 1973 the accession to the Community of two of its member countries, the United Kingdom and Denmark, disrupted EFTA, which was left with only five members: Austria, Finland, Norway, Switzerland and Sweden. Trade agreements had to be concluded with each of these countries. However, the plan to create a large internal Community market, launched in 1985 and completed at the end of 1992, proved to be extremely attractive to these countries, which had in the meantime been joined by Iceland. A formula was required to allow them to play a significant part in this market without joining the Community.
    2. **Creation of the EEA**
       Negotiated in 1992, the Agreement creating the European Economic Area was signed on 2 May 1992 and was to enter into force on 1 January 1994. It united the Community (which at that stage had 12 members) and the six EFTA states. The latter, however, soon saw their number reduced to five when Switzerland failed to ratify the Agreement following an adverse referendum result.
    3. **Subsequent development**
        1. As three other EFTA countries - Austria, Finland and Sweden - joined the European Union at the beginning of 1995, the EEA now only covers Iceland, Norway and Liechtenstein (which joined EFTA in May 1995).
        2. The 10 new Member States joining the EU on 1 May 2004 will automatically become part of the EEA.
2. **The nature of the European Economic Area**
    1. **A step beyond a free trade area**
        1. **An extension of the EC's internal market** .
           The basic aim of the EEA is to extend the EC's internal market to cover the three EFTA countries. This market goes beyond the removal of customs duties and quantitative restrictions among the members: it seeks to remove all obstacles to the creation of an area of complete freedom of movement similar to a national market. To this end, the EEA covers:

- the four main freedoms of movement of the internal market: movement of persons, goods, services and capital;
- Community policies closely linked to achieving the four freedoms, known as horizontal policies, one of the most important being competition policy.

2. **Participation in certain flanking Community policies**
   - The EEA Agreement stipulates that the EFTA countries may also participate in internal market flanking policies which entails a financial contribution on their part.
   - In addition, these countries have decided to contribute financially to the Community structural policy.
3. **Adoption of Community legislation**
   Given that, unlike a free trade area, the EC internal market - rather than limiting itself to a number of initial rules - constantly produces a considerable volume of legislation, the EEA has had to establish a mechanism for extending these rules to the EFTA countries.

2. **The limits of EEA**
   1. **Free trade itself is limited** : it does not cover certain sectors such as agriculture and fisheries.
   2. **The extension of the internal market is not complete** :
      - the free movement of persons only applies to workers although it applies to all people within the European Union, particularly in the Schengen area (***2.3.0**);
      - there continue to be controls at the EU's borders with the three EFTA countries;
      - there is no harmonisation of taxation.
   3. **The EEA is not even a customs union** as it does not have any common external tariff. As a result, it does not have a common commercial policy towards the rest of the world either.
   4. Obviously, **the EEA excludes the other elements of European integration** :
      - economic and monetary union;
      - external and common security policy;
      - cooperation in the field of justice and home affairs.
   5. Above all, it does not integrate the three countries in the European Union's institutional and decision-making system.

3. **The initial extension of the internal market to the three EFTA states**
   From the outset, the EEA Agreement incorporated a significant proportion of the rules and policies of the internal market that existed at that time.
   1. **Basic principles** (corresponding to primary Community law)
      1. **The four freedoms**
         - **Freedom of movement of goods** . The provisions in the EEA Agreement concerning the basic rules of the internal market are identical or similar to those of the EC Treaty:
           - prohibition of customs duties and any charges having equivalent effect together with quantitative restrictions and any measures having equivalent effect;
           - adjustment of commercial state monopolies;
           - simplification of border controls and customs cooperation.
         - **Freedom of movement of persons, services and capital** :
           - abolition of discrimination based on nationality as regards workers' residence and access to employment;

- right of establishment for self-employed persons and undertakings;
- freedom to provide services;
- measures to facilitate the exercise of these freedoms, in particular the mutual recognition of qualifications.

2. **Horizontal policies required to achieve the four freedoms**
   - The most important of these is **competition policy** , for which the EEA Agreement faithfully reproduces the provisions of the EC Treaty:
     - as regards undertakings: ban on agreements and abuses of dominant positions, control of concentrations;
     - as regards states: control of public undertakings and services of general economic interest.
   - The **other Community policies** integrated into the EEA are:
     - transport policy;
     - public procurement;
     - company law;
     - intellectual property;
     - social policy;
     - consumer protection;
     - the environment.
3. **Participation in flanking policies** ('cooperation outside the four freedoms')
   - **Areas** : The EEA Agreement provides for the participation of the EFTA countries in the EU's activities in a number of areas:
     - research and development;
     - information services;
     - education and training;
     - youth;
     - tourism;
     - SMEs;
     - audiovisual sector;
     - civil protection.
   - **Forms** : in these areas, the EFTA countries participate in particular in framework programmes and projects.
   - **Principles:**
     - equal rights and responsibilities in relation to the action concerned;
     - financial participation of the EFTA states.

2. **Incorporation of Community legislation**
   The EEA Agreement does not merely extend to the EFTA countries the fundamental rules of the EC Treaty on the internal market. It also incorporates all of the implementing legislation for these rules produced by the Community at the time, the 'secondary legislation' or the 'Community *acquis* '. This legislation has been incorporated through the protocols and annexes attached to the Agreement and it covers some 1 600 Community acts:
   - regulations, directives, decisions and non-binding acts;
   - relating for the most part to the four freedoms and related policies and, to a lesser extent, to flanking policies.

4. **The continuing extension of the internal market to cover the EFTA countries**
   1. **The continuous incorporation of Community legislation**
      The European Union continuously produces legislation on the internal market

and related policies, legislation that naturally must be extended to the three EFTA states so that the EEA operates in an entirely homogeneous manner. The EEA Agreement therefore establishes a permanent incorporation mechanism.

1. **Decisions on the incorporation of legislation**
   - As new texts are adopted by the European Union, these decisions are taken by a **Joint Committee,** composed of representatives of the European Union and representatives of the three EFTA states, and meeting at regular intervals (once a month) to decide what proportion of the legislation and more generally all Community acts (actions, programmes, etc.) should be incorporated into the EEA; the legislation is formally incorporated by including the acts in question in the lists of protocols and annexes to the EEA Agreement.
     In all, some 4 000 Community acts have been incorporated into the EEA Agreement since its entry into force.
   - **An EEA Council** , made up of representatives of the EU Council and the Foreign Ministers of the EFTA states, meets at least twice a year to provide a political incentive and guidelines for the Joint Committee.
2. **Transposition**
   Once a Community act has been incorporated into the EEA Agreement, it must be transposed into the national legislation of the three EFTA countries, if the transposition is required according to their constitutional arrangements. It may take the form of a simple governmental decision or may require parliamentary approval.
3. **Nature of the mechanism**
   - The mechanism gives the impression that the extension of Community acts concerning the internal market to the EFTA states must be assessed by those states, initially in the form of a decision to incorporate the legislation by the Joint Committee and then in the form of a national decision on transposition. In reality, these decisions are essentially formal in nature: the Community legislation must be extended to these states; they do not have any choice. The Association Agreement also requires the Joint Committee to decide as quickly as possible so that the act in question may be applied more or less simultaneously in the Union and in the three countries; the only margin for assessment is the possibility of purely technical adjustments;
   - Provisions have been established to involve the EFTA countries in the preparation of Community acts. Thus, the representatives of these countries are invited, on an equal footing with their counterparts in the EU Member States, to take part in the written and oral consultations, and at times in the work of the standing committees set up for this purpose by the European Commission;
   - Even at the stage of the Community decision-making procedure (Commission proposal, consideration and decision of the Council and of the European Parliament), the EFTA countries are regularly informed and even consulted;
   - Following the legislative decisions, the EFTA states are consulted again on the implementing measures for these decisions taken by the European Commission. They are often invited to participate in the various committees that assist the Commission in exercising its

executive power ('comitology') although they do not have any voting rights;
- Basically, the EFTA states clearly do not participate in the European Union's decision-making procedures themselves although many of these decisions apply to them more or less automatically. That is the consequence of remaining outside the EU. However, paradoxically, it means that with the EEA mechanism they have less sovereignty than they would if they were members of the EU.

2. **Monitoring the extension of Community legislation to the EEA**
   Once the internal market legislation has been extended to the EFTA countries, its correct transposition and application must be monitored. Given that these countries did not have any mechanism for such monitoring, the EEA Agreement stipulated that EFTA would establish an appropriate mechanism. This consists of:
   - a Surveillance Authority,
   - an EFTA Court.

   These bodies play the same role as the European Commission and the Court of First Instance and the Court of Justice respectively within the European Union in ensuring that the EFTA members of the EEA respect the rules in question.