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**DRAFT MINUTES**

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Subject: Draft minutes of the 46th meeting of the EEA Council  
Brussels, 15 November 2016

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**DRAFT MINUTES**

**of the 46th meeting of the**

**EEA COUNCIL**

**(Brussels, 15 November 2016)**

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The EEA Council held its 46<sup>th</sup> meeting in Brussels on 15 November 2016.

The meeting was chaired by Ms Elisabeth VIK ASPAKER, Minister for EEA and EU Affairs of Norway, who led the EEA EFTA delegation accompanied by Ms Aurelia FRICK, Minister for Foreign Affairs of Liechtenstein and Mr Stefán Haukur JÓHANNESSON, Permanent Secretary of State, Minister for Foreign Affairs of Iceland.

The EEA EFTA delegation also included Mr Kristinn F. ÁRNASON (Secretary-General of the European Free Trade Association - EFTA) and Mr Sven Erik SVEDMAN (President of the EFTA Surveillance Authority - ESA).

The EU delegation was led by Mr Lukas PARIZEK, Secretary of State, Ministry for Foreign and European Affairs of the Slovak Republic, accompanied *inter alia* by representatives of the General Secretariat of the Council, the European External Action Service (the 'EEAS') and the European Commission.

### **Opening statement of Minister Elisabeth VIK ASPAKER on behalf of the EEA EFTA States**

Co-chair, dear colleagues,

I welcome you to the 46<sup>th</sup> meeting of the EEA Council.

I propose that we deal with items 1, 2, and 3 of the agenda without prior discussion.

### **Intervention of Secretary of State Mr Lukas PARIZEK on behalf of the European Union**

Dear Colleagues from Norway, Liechtenstein and Iceland, from the EFTA Secretariat, as well as from the EFTA Surveillance Authority,

It is a great pleasure for me to welcome you and your delegations here in the premises of the Council of the European Union for our 46th EEA Council meeting.

The President of the Council of the European Union, Mr LAJČÁK, who, due to other commitments, is unable to attend, has asked me to convey to you his best wishes for a productive meeting.

Before we go into the substance of our agenda, I would like to sincerely thank you and the EFTA Secretariat for the excellent cooperation in the preparation of this meeting.

Furthermore, I would like to confirm that there is an agreement to deal with items 1, 2 and 3 of our agenda without discussion.

Thank you very much!

**1. ADOPTION OF THE AGENDA**

The EEA Council adopted the Agenda, as set out in [EEE 1604/16](#).

**2. APPROVAL OF THE MINUTES**

The EEA Council approved the minutes of the 45th meeting of the EEA Council, which took place in Brussels on 15 November 2016, as set out in [EEE 1607/16](#).

**3. PROGRESS REPORT BY THE EEA JOINT COMMITTEE**

The EEA Council took note of the Progress Report by the EEA Joint Committee, as set out in [EEE 1606/16](#).

**Intervention of Minister Elisabeth VIK ASPAKER on behalf of the EEA EFTA States**

Thank you, these points are then adopted. That takes us directly to item 4, the assessment of the overall functioning of the EEA Agreement.

**4. ASSESSMENT OF THE OVERALL FUNCTIONING OF THE EEA AGREEMENT**

**Intervention of Minister Elisabeth VIK ASPAKER on behalf of the EEA EFTA States**

Dear colleagues,

Throughout the years, we have in this forum stressed the importance and unique nature of the EEA Agreement and our co-operation, but this has never been more valid than now when we are faced with a number of uncertainties that will shape developments in the European Union for the future.

It is more important than ever to make the EEA a political priority and to live up to our obligations – to ensure that the agreement continues to function well. For this purpose, we have stepped up our work and processes – and will continue to do so for the benefit of our citizens and companies.

Our shared Single Market, namely the EEA, needs to remain adaptable to respond to an ever-changing social, economic and technological environment. It requires continuous maintenance and follow-up and needs to be given priority by all sides. A forward-looking agenda focused on measures to promote growth and jobs in Europe is essential. Initiatives to further develop the Single Market, such as the Energy Union, the Digital Agenda, and the Single Market Strategy for Goods and Services, are welcome steps towards our common goals. The EEA EFTA States will continue to contribute to the further development of Single Market policies and initiatives.

Social and economic inequalities, throughout the EEA need to be addressed. We do our share through the EEA Grants. In this light, I am pleased that the Agreement on the EEA Financial Mechanism for the new period 2014-2021 was ratified by all three national parliaments in the EEA EFTA States during the summer.

The financial commitments under the new Financial Mechanism represent the most ambitious effort so far by the EEA EFTA States to contribute to reducing social and economic disparities in Europe.

We, the EEA EFTA States, have put more focus on challenges related to migration and asylum, with justice and home affairs being designated as a specific priority sector. As before the new EEA Grants also focus on environment, civil society, culture and fundamental rights, but with greater emphasis this time on innovation, research and competitiveness. A new fund for regional cooperation is also being established under the new Mechanism, a large portion of which will be used to promote sustainable youth employment.

We are well on track for the implementation of the new Mechanism. The first Memoranda of Understanding with Romania was signed on 13 October in Bucharest. Negotiations on the Memoranda of Understanding with other Beneficiary States are ongoing and, we expect this process to be completed in the course of next year.

Earlier this autumn, the first package of Decisions related to the European Financial Supervisory Authorities were adopted by the EEA Joint Committee. This is a major achievement. Financial services are essential for a well-functioning Single Market, and we have now agreed on a solution that ensures regulatory homogeneity of the internal market in financial services throughout the EEA, and continued access by EEA EFTA operators to the market.

Considering the complexity of EU financial services legislation, finding a model that could ensure a level playing field across the EEA, while at the same time respecting the two-pillar structure of the EEA Agreement, was a difficult task that required hard work and ingenuity by both the European Commission and the EEA EFTA States.

Indeed, the fact that we were able to find a solution to this important matter is, in itself, a signal of the importance we all attach to the good functioning of the EEA Agreement. The creation of the European Financial Supervisory Authorities raised a number of political and constitutional challenges in the EEA EFTA States, which needed to be addressed. While the process took longer than most of us expected, I must emphasise that the thoroughness of the discussions we held internally, including with our national parliaments, was important to ensure that decisions of this magnitude had broad support in our Member States.

It is now important to keep up the momentum created by the approval of the first package of Decisions related to the European Financial Supervisory Authorities. The EEA EFTA States have agreed to the Commission's request to prioritise banking-related acts. While discussions continue on these acts, it is also important to proceed with the processing of other less challenging acts, in particular those already submitted to the EU side some time ago.

Reducing the number of EU legal acts pending incorporation into the EEA Agreement has been a key priority in recent years also more generally. This is essential to ensure equal conditions of competition, and the respect of the same rules, throughout the EEA.

A significant share of our current backlog consists of legal acts that have been on our agenda for a long time. Considering the important breakthrough that I have already mentioned today, I am confident that a continuation of the constructive approach taken by both sides in recent times will lead to a durable reduction in the number of legal acts awaiting incorporation in both the medium and long term. Having said this, we need to keep in mind that a certain backlog is an inherent feature of the EEA Agreement.

Trade is of great importance for the EEA EFTA States, in particular trade with the European Union, and in this light I want to raise our concerns in relation to Brexit.

We are, of course, aware that no notification on British withdrawal from the EU, as stipulated by Article 50 of the Treaty on European Union, has been submitted to the European Council, and that for now there should be no change in the UK's relations with the EEA EFTA States. These relations will continue to be governed by the current arrangements, including the EEA Agreement.

However, a decision by the United Kingdom to leave the EU will also have consequences for the EEA Agreement. In order to safeguard the EEA Agreement and to ensure the continuation of a well-functioning, homogeneous Internal Market in Europe, it is crucial to have continuous exchange of information between the EU and the EEA EFTA States on the future relations between the EU and the UK as soon as Article 50 is triggered.

Other important trade developments that we are also following with keen interest are the negotiations between the EU and the United States on a Transatlantic Trade and Investment Partnership. A regular exchange of information between the European Commission and the EEA EFTA States on the TTIP process is vital to ensure the interests of the EEA EFTA States and, consequently, to ensure that the Internal Market continues to function well. We look forward to reinforcing our dialogue, both in the EEA Joint Committee and at expert level, and call on the EU and the US to duly take into consideration the special position of the EEA EFTA States.

To conclude, while we have been faced with particularly difficult challenges in recent years, considerable progress has been achieved since our last meeting. Though the challenges have been formidable, we have proved again and again that a pragmatic and results-oriented approach on both sides is essential to make the EEA Agreement work. We have been consistently successful in finding mutually acceptable solutions, and I am confident that this will also be the case in the future.

I would like to thank the outgoing EU Chair, Slovakia, for its positive and constructive cooperation this term. We particularly appreciate the way in which you have facilitated our participation in informal EU Council meetings and in political dialogues, as well as the preparation of this meeting. We look forward to working with Malta during its Presidency of the EU Council in the first half of next year.

Thank you.

May I then invite the EU Council Presidency to make a statement?

### **Intervention of Secretary of State Mr Lukas PARIZEK on behalf of the European Union**

Dear Colleagues,

First of all, I would like to take this opportunity to emphasize, once again, the importance of the meetings of the EEA Council, which give us the opportunity to evaluate the application of such an important instrument - the EEA Agreement - and to hold a useful exchange of views on the various aspects of it.

All in all, we consider that the EEA Agreement functions in a satisfactory manner and has continued its key role in advancing economic relations and internal market integration between the EU and the EEA EFTA States.

Concerning the day-to-day developments with regard to the EEA Agreement, the EEAS representative (on behalf of the Commission) will give you shortly a report on the progress achieved.

Allow me nevertheless to briefly highlight a few developments since the last EEA Council meeting in May, which clearly show that relations between the EU and the EEA EFTA States are strong and evolving in a number of areas.

Firstly, in the area of financial services, we would like to welcome the recent adoption of the EEA Joint Committee Decisions of the first package on the European Supervisory Authorities. We hope that the other outstanding legislation in the field of financial services will be incorporated and applied as swiftly as possible, in order to ensure a level playing field throughout the EEA.

On trade in agriculture, a positive point to be recalled is the conclusion of the negotiations between Iceland and the EU on further liberalisation of agricultural trade, on protection of geographical indications, as well as on further liberalisation of trade in processed agricultural products.

As regards Norway, the EU welcomes the progress made in the negotiations on further liberalisation of agricultural trade launched in February 2015 and encourages the parties to actively continue their efforts for further progress in the negotiations.

However, we have taken note with regret of the suspension of the negotiations between the EU and Norway on the protection of geographical indications and hope that these negotiations will resume soon.

We would like to highlight the importance of the cooperation with the EEA EFTA States on climate change. The early entry into force of the Paris Agreement on 4 November 2016 is a clear signal that our countries are committed to decisive global action on climate change. The EU encourages also other countries to ratify the Paris Agreement as soon as possible and supports the inclusive approach so that all Parties can participate and fully contribute to the development of the details of the Agreement.

While welcoming recent efforts to reduce the backlog, we note that there is still an important number of legal acts for which the compliance date in the EU has passed, but which have not entered into force in the EEA EFTA States. More needs to be done and we would like to encourage the EEA EFTA States to continue their efforts towards a streamlined incorporation and application of the EEA relevant legislation.

The EU is currently preparing conclusions on its relations with Non-EU Western European countries. As you are aware, this is an important instrument for the Member States to assess the overall state of the EU relations with the EEA EFTA States every two years. We can inform you that the Slovak Presidency aims to adopt these conclusions by the Council of the EU on 13 December 2016.

With this said, I will now give the floor to the EEAS representative, speaking on behalf of the Commission, who will add some comments on the item under debate.

Thank you very much!

### **Intervention of Director Angelina EICHHORST on behalf of the EEAS**

Co-Chairs, ministers, permanent secretary, state secretary, dear colleagues and friends, it is a real pleasure for me to reconvene after 6 months and share with you, on behalf of the External Action Service and the European Commission, our views on the functioning of the EEA Agreement.

Much has happened politically in these last few months: the Brexit referendum in June, the attempted coup in Turkey in July, the election of a new UN Secretary General, evolutions in Syria and Libya, election of a new parliament in Iceland in October, the award in Oslo of the Nobel peace prize for tenuous work on the ongoing peace process in Colombia, the entering into force of the Paris Climate Agreement in early November, and the election of a new US president.

The HRVP has also presented in June the EU's new Global Strategy on Foreign and Security Policy and just yesterday the FAC Council adopted its Implementation Plan on security and defence. This strategy frames the Union's united and responsible external action for the years to come. It aims to advance, together with our partners around the world, our values and interests in security, democracy, prosperity and rule-based global order, including human rights and the rule of law.

It is obvious that the EEA Agreement will make no exception from this renewed European commitment. The strength of the Agreement for the past 20 years in bringing our economies and people together will continue to guide and inspire our efforts for the months and years to come.

It is in this context that we fully cherish the very recent provisional entry into force of the signed agreements on the 2014-2021 EEA/Norway Financial Mechanisms as well as of the additional protocols on trade in fish and fisheries products between Norway and the EU and Iceland and the EU.

We just learned about that this great news paved the way for complementary positive news related to the signature on 13 October of the first memoranda of understanding with Romania in order to swiftly implement the future grants. This is the first of a series of MoUs to be signed with all the 15 beneficiary countries and we can only encourage this ambitious pace of work that should facilitate an immediate successful impact on the ground in all the priority sectors envisaged.

It is in this positive spirit that I would like to flag with you briefly three main aspects where we need to look at and where we could do more to safeguard the overall success in the functioning of the Agreement for the coming months:

- 1) addressing the issue of the existing backlog of legal acts pending incorporation into the Agreement;
- 2) respecting the agreed working schedule and make progress in the Agreement's take up of the comprehensive and substantial package of EU legislation in the area of financial services;
- 3) advancing our work to further liberalize the agricultural trade and the protection of GIs (geographical indications).

First, briefly, the backlog issue, where we notice a worrying development: there are currently 517 legal acts awaiting incorporation in the Agreement, which is an increase by almost 20% in just five months, since May 2016.

We are all fully aware of the negative impact of the backlog on the homogeneity of the Single Market, the principle of fair competition and on different sectors of our economies such as financial services or organic production.

We took note of the steps taken by the EFTA side at the end of 2015 to streamline the administrative procedures at the EFTA Secretariat. However, the increased backlog tells us that our efforts are not bringing about the expected results.

One of the explanation lies, of course, in the amount of Joint Committee Decisions which the EEA EFTA side is required to submit to the EEAS&COM. In the period since our last meeting in May, we have received one third less Joint Committee Decisions compared to the same period last year. This development should be reversed as a matter of priority in the upcoming weeks.

It is important to acknowledge that our intense work over the last months has brought about also significant progress on long-standing files such as the Third Energy Package, Regulation on medicinal products for paediatric use or the 2009 regulatory framework for electronic communications. This shows that, as we say in Dutch: "When there is a will, there is a way!"

And it is also clear that our overall response to the backlog issue needs to include a preventive side in the sense of avoiding new backlog to emerge. This applies in particular to the entire legislative package aimed at ensuring a homogenous supervision regime in the field of financial services across the entire European Economic Area, which allows me to touch upon the second problematic aspect mentioned above.

We have invested so much work in successfully concluding the complex negotiations on an institutional framework to extend the European System of Financial Supervision (ESFS) to the entire EEA area. We now need to make sure that this framework has substance and that we respect the jointly agreed working schedule to take up the relevant EEA legislation in this area into the Agreement.

It is certainly a very positive development and a major addition to the EEA's two-pillar institutional system that we managed to incorporate on 30 September the first package of 31 legal acts. The whole package grows by day and has meanwhile reached more than 200 legal acts. The more one waits, the less convergent and homogenous our internal market in the area of financial services risks unfolding. We hope that incorporation of the rest of the package should be rather a technical matter, which can be done in a relatively short timeframe.

We trust your sense of urgency on this and rely on the political support from both your governments and Parliaments to accelerate the pace and make sure that the agreed sequence in processing the *priority list* of the outstanding legal acts is being respected so that the full package can become fully applicable.

Allow me to turn to the third and final key aspect to which we attach particular importance, further liberalization of our agricultural trade.

EU is driven by its deep political conviction that liberalization of our economies makes us more competitive and prosperous.

We welcome the conclusion of the negotiations between Iceland and the EU on further liberalisation of agricultural trade within the framework of Article 19 of EEA Agreement, on protection of geographical indications, as well as on further liberalisation of trade in processed agricultural products and look forward to their rapid entry into force.

The EU strongly supports and encourages the Icelandic government to continue its progress in the final stages of its strategy to lift the capital controls. Free movement of capital is a fundamental internal market freedom and an integral part of the European Economic Area *acquis*, even if restrictions can be implemented temporarily.

We very much value the existing level and quality of trade with Norway, but also want to tap into similar unused potential in the area of agricultural trade and geographical indications and hope to replicate the successful negotiations with Iceland also with Norway.

We therefore strongly support further progress in the negotiations with Norway in the framework of Art 19 of the EEA Agreement in order to conclude them swiftly. Similarly, we reiterate the interest and the window of opportunity for the EU and Norway to actively engage in a proper and constructive negotiation process on trade in processed agricultural products in line with the Protocol 3 to the Agreement.

The EU-Norway bilateral negotiations on the protection of Geographical Indications are still unilaterally suspended. We trust that this decision will be reversed very soon and parties will reconvene in view of allowing negotiations to advance.

The framework of these negotiations will serve as an appropriate channel to address the protectionist trade measures on cheese and meat that have been introduced by the previous Norwegian government and that have been disputed by the EU side on so many occasions.

Dear friends,

EU and the EEA EFTA countries, either through the EEA Agreement or bilaterally, have the responsibility to set examples to the world in the way we design our economies, empower our citizens and protect our nature.

Our joint and strong sense of responsibility towards our citizens, our nature and our future generations underpinned the recent successful European efforts to swiftly ratify the Paris Climate Agreement together with our partners around the world in order to allow its entry into force by early November. It is a great success and the first ever universal and legally binding agreement of this kind aimed at avoiding dangerous climate change. Its success will hinge on its swift and smart implementation and we should join our efforts to this end.

The European Commission's Work Programme for 2017 that has been recently adopted focuses, among others, on a targeted implementation of the Paris Agreement. The work plan contains 21 initiatives framed along the overall top political priorities of the current Commission.

Next to the implementation of the EU Global Strategy that I mentioned early on, these initiatives range from the implementation of the digital single market strategy to the implementation of the Energy Union Strategy, of the European agenda on migration, of the youth initiative to the progress towards an effective and genuine Security Union.

They all reflect the EU's renewed commitment towards a Europe that protects, empowers and defends its citizens. It is this spirit that frames our work and efforts under the EEA Agreement.

More than ever, our citizens need to see that our economies, our investments, our political system and agreements, such as the EEA, work, empower and give them a sense of secure and predictable future. There is no better way that we can safeguard the legacy and the future of the EEA agreement than working together towards this end.

**Intervention of Minister Elisabeth VIK ASPAKER on behalf of the EEA EFTA States**

May I give the floor to my colleagues from Iceland and Liechtenstein to give their statements?

**Intervention of Permanent Secretary of State Stefán Haukur JÓHANNESSEN on behalf of Iceland**

Thank you,

First of all, let me thank you Minister ASPAKER for stepping in as our chair with such a short notice. Minister ALFREÐSDÓTTIR would of course have preferred to be here herself today, but unfortunately developments in Icelandic politics prevented her from participating today. She nevertheless asked me to send all of you her regards.

The EEA Agreement has enjoyed a broad support in Iceland since its entry into force more than 20 years ago. The benefits and the achievements of the EEA Agreement may seem obvious to all of us. Not only has it allowed us to trade more freely and modernise our legislation, it has also created numerous opportunities for contact at the more personal level by allowing students to study abroad more easily, researchers to work with their European colleagues or job-seekers to find job opportunities in any EEA Country. The EEA Agreement has been a catalyst for many of the profound changes that have taken place in Icelandic society during the last twenty years.

While the EEA Agreement is certainly a success story, we should also recognize that it is currently confronted with important challenges. Here, Brexit merits a special mention. There are still many uncertainties what implications Brexit will have for the EEA. These uncertainties will probably remain for some time. Our main priority should be to ensure that Brexit will not disrupt the good functioning of the EEA Agreement, whatever institutional arrangement will be found in the end. Here, I would like to stress the importance of maintaining a strong dialogue between all the EEA Contracting Parties on what consequences Brexit will have for the EEA.

It is important that our citizens continue to see the EEA Agreement as a source of actual benefits to them and avoid that it be perceived as a source of regulatory burden. We therefore strongly endorse the statement in the Commission's Work Programme for 2017, that *'better regulation, accountability and transparency continue to be the core business model of this Commission and all EU institutions need to apply these principles in a consistent and committed manner if we want to win back the trust of our citizens.'* Our work on incorporating new EU Acts into the EEA Agreement is made so much simpler when the benefits of new EU legislation is obvious to our companies, stakeholders and to the public at large. We therefore urge the Commission to stick to its approach of focusing on big and urgent things, whilst striving for simple, evidence-based, predictable and proportionate laws which deliver maximum benefits for citizens and businesses.

One of the more ambitious areas for legislation currently under consideration by the EU is the European Pillar of Social Rights. This of course raises many aspects, but allow me to highlight one, which is the work-life balance faced by working families. This is a crucial issue and one where the Icelandic experience can make an important contribution, considering that Iceland has the highest rate of women's participation in the labor market of any OECD country. It is of course crucial that the value of work-life balance be recognized at the European level and that this objective informs any proposals for legislative action by the EU in social pillar. Here we also need to bear in mind that when it comes to taking specific actions to promote a better work-life balance, it is often the national, or indeed the local level, which are the best equipped to achieve concrete results.

Removal of capital controls introduced in late 2008 remains one of the government's highest priorities. In line with recommendations from the IMF, the authorities introduced a three-stage capital account liberalization strategy in June 2015. The first stage involved solving the problem created by the failed financial institutions' estates and the work on that part has been fully completed. The second stage was solving the problem created by the so-called offshore króna assets. The Central Bank of Iceland has held several foreign exchange auctions facilitating the exit of those assets. As a result, the stock of offshore króna assets has decreased substantially and currently stands at around 9% of GDP. The remaining offshore króna assets have been placed on blocked accounts while the third stage of the strategy is implemented; The lifting on individuals and businesses.

By the turn of the year, the capital controls should not place any restrictions on capital movements for the vast majority of individuals. Decisions on the final removal of what little will be left are expected in early 2017.

### **Intervention of Minister Aurelia FRICK on behalf of Liechtenstein**

Mister Chairman, dear colleagues,

I would like to add a few comments from Liechtenstein's perspective on some issues already raised in the joint EEA EFTA statement.

Finding a solution to allow for new EU legislation in the financial services sector to become part of the EEA Agreement has been Liechtenstein's main priority in the EEA in the past couple of years. We are therefore very pleased that an important milestone was reached this fall with the incorporation of the first ESAs package. This was a crucial step to ensure market access for our financial undertakings.

However, we also think that we must now shift our focus to the many other legal acts in the financial services field pending incorporation. We count on the continued efforts on all sides to work hard to reduce the financial services backlog as soon as possible. In this regard, there is not only a need to continue the work on the banking-related acts, but also to proceed with the processing of less challenging acts, in particular those already submitted to the EU side some time ago. Not doing so would, in our view, not be in line with our joint aim of reducing the backlog, in particular in this very important economic sector.

As regards the EEA Financial Mechanism 2014-2021, we are satisfied with the progress made so far in the MoU negotiations with the beneficiary states. We remain committed to this process and we will continue our work to move further towards the implementation stage in all beneficiary states as soon as possible.

Finally, a word on Brexit. We do of course regret the prospect of the UK leaving the EU and the EEA.

Going forward, we see two important priorities: First, the procedures for withdrawal from the EEA Agreement must be fully respected, and the EEA EFTA States must therefore be closely consulted on the content and process of the future withdrawal negotiations between the UK and the EU. Second, we must continue the good cooperation between the EFTA and the EU side in the EEA to protect the functioning of our common market.

Liechtenstein remains strongly committed to the EEA and to playing its part in making sure that our shared single market continues to be a success story to the benefit of our companies and citizens.

Thank you.

### **Intervention of Minister Elisabeth VIK ASPAKER on behalf of the EEA EFTA States**

Thank you. If there are no further comments I hereby conclude the discussion on the functioning of the EEA agreement.

And this brings me to the next item on our agenda - the orientation debate - which this time is on *'the Digital Single Market, including the collaborative economy'*.

### **5. ORIENTATION DEBATE: 'DIGITAL SINGLE MARKET, INCLUDING THE COLLABORATIVE ECONOMY'**

### **Intervention of Minister Elisabeth VIK ASPAKER on behalf of the EEA EFTA States**

Dear colleagues,

As I noted earlier today, the EEA EFTA States welcome the priority given to the Digital Agenda by the European Union. The Digital Single Market is an important element for the future development of the EEA Agreement.

Indeed, we discussed the Digital Agenda in our meeting in May last year, soon after the European Commission had presented its Digital Single Market Strategy. Since then, the EEA EFTA States have actively contributed to its development and implementation, both by submitting written comments and by participating in discussions at expert level.

We now look forward to hearing about the state of play and further development of this Strategy, including the collaborative economy as an element of the Digital Single Market.

I give the floor to the EU Council Presidency.

**Intervention of Secretary of State Mr Lukas PARIZEK on behalf of the European Union**

Dear Colleagues,

First of all, let me thank the EEA EFTA side for bringing in the Digital Single Market as the topic for the orientation debate. Here, we are on the same page and we can learn a lot from each other, sharing the experience in this new field. The DSM is one of the EU Slovak Presidency's core priorities.

The reason is simple. First, we consider essential providing the EU citizens with the 5<sup>th</sup> freedom relevant for the 21<sup>st</sup> century – free flow of data. Second, we also see a great potential the Digital Single Market carries to win-back the trust of the EU citizens in the European project.

On the other hand, there are still a lot of barriers that do not exist in the physical Single Market and which are holding us back.

Building on the achievements of the Dutch Presidency we are working hard to ensure that the Agenda for the Single Market agreed by the European Council on June 28 and 29 is being pursued as a matter of priority.

Against this background, I am happy to set out the ambitions of the Slovak Presidency:

One file crucial to the benefit of all European citizens is the revision of rules for wholesale roaming markets. This means that anyone who travels within the EU will no longer have to pay additional charges when outside of their country. We therefore need an agreement, we can't afford not to have a compromise. We hope to reach an agreement in the Council in December which would pave the way for the EU to eliminate the concept of roaming for the EU citizens as of June 2017.

The Presidency will also be leading the forthcoming negotiations with the European Parliament on the cross-border data portability, which aims to ensure that a consumer temporarily abroad has access to any online content subscribed to at home.

We have similar ambition with the legislation on the harmonised usage of spectrum in the frequency band of 700MHz, that would create conditions for the so-called 5G coverage in the EU

As regards the proposals on digital content contracts, parcels delivery or unjustified geo-blocking, which seek to remove barriers to e-commerce, the Slovak Presidency is treating these files with particular attention. In the Council, we would like to go as far as possible by the end of our semester, so that the upcoming Presidency can soon start negotiations with the European Parliament on most of them.

At the same time, I have to acknowledge that this will require particular effort from the Presidency, given the political sensitivities for many Member States.

The Commission has now delivered most of the concrete initiatives outlined in the Digital Single Market Strategy.

The ball is now in the camp of the Council and the Parliament. We must now work closely together on both priorities and content to deliver the right measures at the right time to our citizens and businesses.

Let me now highlight one particular part of the new digital reality we are facing - a topic which is on our agenda here today, the collaborative economy.

While the sharing of assets, resources and skills among citizens and businesses has always existed, the development of digital platforms has recently enabled the rapid growth of the collaborative economy. Collaborative platforms create an open and efficient marketplace for services providers and users.

The new business models offer an opportunity to create more growth, jobs and better choice for the consumers and businesses. The collaborative economy increases competition, innovation and growth and simultaneously enables a more efficient use of resources, skills and assets. Nevertheless, it is necessary to ensure that these new business models have to function within a legal framework which should be fair to all players in the economy.

In response to these challenges, the European Commission adopted on 2 June 2016 the Communication '*A European agenda for the collaborative economy*'. This includes legal guidance and policy recommendations for the balanced development of the collaborative economy in Europe.

To give Member States the opportunity to express their views on the Commission communication, we held a policy debate at the COMPET Council on 29 September.

Here Member States broadly supported the approach by the Commission. They stressed the potential of collaborative business models to create jobs, but at the same time advocated a cautious approach when it comes to national or European regulation. At the European level, the application of existing EU law should have priority.

The Council will now continue to monitor the situation with the help of the Commission and we will work on the exchange of best practices with a view to create the best possible environment for citizens and businesses in the collaborative economy.

The Slovak Presidency is committed to further facilitate discussions on the collaborative economy and therefore we organise a Collaborative Economy Conference which will take place this afternoon in Brussels.

Presence of Slovak Deputy Prime Minister Peter PELLEGRINI who is in charge of digitalization, Vice-president KATAINEN and Commissioner BIENKOWSKA highlights the importance of the topic.

We are organizing Conference to provide an opportunity to exchange best practices between Member States and other stakeholders in the area of collaborative economy and discuss challenges and possible implications for a regulatory framework and competitiveness of the European economy.

Before I pass the floor back to the EEA EFTA side, the Commission might wish to add its views on the subject.

### **Intervention of Director Hubert GAMBS on behalf of the European Commission**

The collaborative economy serves citizens and businesses, old and new. It provides new opportunities for entrepreneurs and more services for consumers. It is growing very rapidly. Revenues are estimated to have doubled in 2015. This is far quicker than the e-commerce sector, which grew by around 15% over the same period. Europe has a clear interest to support the innovative business models of the collaborative economy. They have the potential of creating jobs and promoting growth in Europe, if developed responsibly.

Regulators and national authorities should offer legal clarity with regard to the applicable rules to collaborative economy. In reply to the legal uncertainty and the danger of market fragmentation, the EU Commission therefore adopted on 2 June 2016 "A European agenda for the collaborative economy". The objective of this document is to promote the balanced development of the collaborative economy by explaining how existing EU law applies to this kind of business models and by providing recommendations to Member States and market operators on how to embrace the collaborative economy.

Legal certainty is vital for the uptake of the collaborative economy. Market operators and consumers should be able to identify the applicable rules. When countries adopt or revise regulation applicable to the collaborative economy, they should take into consideration the specificities of these business models. Not everything which has traditionally been considered to be justified and proportionate should automatically apply to the new market players. According to EU law, all market operators have to comply with the rules that are applicable to them. Rules in place have to be justified and proportionate to meet legitimate public interest objectives.

Member States are adopting divergent approaches regarding collaborative economy. What we consider best practices are those which seek to accommodate the new business models of collaborative enterprises whilst maintaining the required consumer and social protection. We have identified several best practices across EU Member States:

### **(i) Revising sector-specific legislation**

Each sector in the collaborative economy presents different challenges and particularities. A "one-size-fits-all" approach cannot necessarily address all the challenges. Some Member States have adopted sector-specific legislation which reflects its specificities.

Actions are ongoing in Finland to reform transport rules to facilitate the take-up of the collaborative economy.

In the accommodation sector, some Member States have adopted sector-specific approaches. Best practices may be found in Amsterdam and London. London reformed its rules to allow any residential property in Greater London to be rented out for short term periods without any additional licence or change in the designation of its use, if the total number of nights in the same calendar year does not exceed 90. Amsterdam has set up a similar scheme but it is currently considering lowering the maximum number of nights to 30 days/year per apartment to limit the number of tourists.

### **(ii) Establishing fiscal thresholds to differentiate between providers acting on an occasional or professional basis**

Belgium and Italy are considering setting a cross-sectorial threshold to facilitate the take-up of the collaborative economy below a certain income threshold.

Belgium has adopted a threshold for "collaborative income" for people providing collaborative services at a reduced rate of 10% (instead of the 33% rate applicable to independents) for amounts below the threshold of € 5 000 gross per year.

Italy is proposing a legislative initiative whereby all income up to € 10 000 per year and generated via platforms would be taxed at a special rate of 10%.

Establishing minimum thresholds under which an economic activity would be considered a non-professional "peer-to-peer" activity and would not need to comply with the same regulatory requirements applicable to a service provider acting on a professional basis, is one way forward in promoting the "peer-to-peer" economy.

### **(iii) Recording economic activity to facilitate tax collection**

France is introducing the possibility for platforms to collect local taxes for the users. Paris is already making use of this possibility for example vis-à-vis collaborative platforms like AirBnB and Onefinestay.

The Estonian Tax and Customs Board has been working with Uber and other collaborative platforms in a pilot project aiming to design a reporting scheme to facilitate pre-fill income tax returns of Uber drivers on the basis of data received from Uber.

### **(iv) Not demanding prior authorisations or licences for the short-term rental**

In their sectorial legislation regulating tourism and accommodation services, some Member States make a distinction between the market access requirements requested from providers of short-term rental accommodation depending on whether they are secondary residences, rented in full, or for a maximum number of days per year.

With those rules, Member States intend to differentiate between the private and the commercial/professional usage of a property and impose licence or registration schemes and other safety requirements accordingly.

This is the case for example, under certain conditions, in Greater London, Amsterdam and Paris.

### **(v) Developing a comprehensive analysis of the collaborative economy**

Some Member States undertake a comprehensive analysis of the phenomenon of the collaborative economy and consider horizontal national strategies, for instance in Denmark.

In the Commission's Communication, we encourage collaborative platforms to act responsibly and to ensure a good quality of services provided via their online interface. This should not automatically mean that platforms play an active role and cannot benefit from the liability exemption.

However, consumer protection and social protection are important aspects of our societies. Regulators are encouraged to find a balance between ensuring consumer protection and social protection of employees, where there is an employment relationship, without imposing disproportionate burden on collaborative platforms.

According to the consumer laws in the EU, their rules apply in relationships between a person acting as a trader (i.e. in the framework of his/her business) and a consumer. In the collaborative economy, these lines can be blurred.

The collaborative economy offers the possibility of using rating and review mechanisms which have the potential of improving the quality of services and increasing consumer trust. We need to ensure that these mechanisms are independent and reliable.

To conclude, Member States are now having a unique opportunity to assess their existing legislation and to see whether its objectives are still relevant and its content still justified, both for traditional and collaborative economy providers. Regulatory and administrative burden for all providers need to be reduced.

From the Commission's side, we have decided that at this stage there is no need for EU legislation on the collaborative economy. This is welcomed by the majority of Member States. But the Commission will continue monitoring the regulatory and economic developments concerning the collaborative economy in each country in order to identify possible next steps. In line with the principles set out in its Communication, the Commission will ensure that EU law is respected.

### **Intervention of Minister Elisabeth VIK ASPAKER on behalf of Norway**

Dear colleagues,

Norway welcomes the priority the European Commission is giving to the development of the Digital Single Market and a digital economy as an instrument of economic growth. We strongly support the Commission's agenda to create a fully-functioning Digital Single Market.

In particular, we agree with the aims of the DSM to increase cross-border e-Commerce, improve connectivity, make copyright rules fit for the digital age and promote a trustworthy single market for data and cloud-based services.

As an EEA EFTA State, Norway wants to be an integral part of the Digital Single Market to make sure that our citizens, businesses and public administrations can fully exploit the digital potential. We are interested, and are closely following, all the initiatives which are being presented under the DSM Strategy.

In April this year the Norwegian Government launched a new Digital Agenda for Norway setting ambitious goals for the digitalization for the public sector. Our Digital Agenda also contains concrete measures to make Norwegian companies more digital, promote digital skills and digital infrastructure, and to drive the transition from a resourcebased to a knowledge-based economy. Many of our initiatives are closely aligned with the EU agenda. Norway has provided input to the Commission's consultations on "online platforms" and on the "revision of the electronic communication regulatory framework".

The collaborative economy has potential for utilizing a larger proportion of resources and increase employment. It creates greater competition and more innovation, and the collaborative economy can provide greater choice for consumers. The Norwegian Government has appointed a committee to look at how the collaborative economy can provide more efficient use of resources, and to assess the regulatory aspects.

The Norwegian program for the presidency of the Nordic Council of Ministers is based on three main pillars: The Nordic Region in Transition, The Nordic Region in Europe and the Nordic region in the World. The main objective is to succeed in promoting competitiveness during the transition to a green, low-emission economy and in building an inclusive society. Digitalization is a key factor for success in this respect.

The Nordic Region should continue to be a digital frontrunner. Our ambition is that the Nordics will play an active role in developing a well-functioning digital single market with ambitions to implement new rules to level out digital cross-border hindrances.

In April 2017 Norway will be hosting a Nordic-Baltic Ministerial conference on digitalization and e-government, focusing on digital integration and regional, digital entrepreneurship.

Thank you for your attention.

I will then give the floor to my colleagues from Iceland and Liechtenstein.

**Intervention of Permanent Secretary of State Stefán Haukur JÓHANNESSON on behalf of Iceland**

Thank you Minister ASPAKER for passing the floor to me,

It has only been a year and a half since the Digital Single Market, and its many aspects, were on our agenda in this forum. Since then much has happened, both when it comes to the evolution of the digital sphere and our attempts at creating the appropriate legal framework for it.

The EU has advanced significantly since then. A number of highly relevant communications laying down the general policy framework have been released, including on issues such as online platforms, the collaborative economy and the European Cloud Initiative. Currently more than a dozen legislative proposals are on the table, including proposals in areas such as supply of digital content, online purchasing of goods, parcel delivery, copyright and unjustified geo-blocking.

The EEA EFTA states follow closely the work of the EU in this field. We also seek to take active and constructive part in the legislative process via the channels provided by the EEA Agreement. This includes EEA EFTA Comments on proposed legislation. Already three such comments have been sent to the EU for consideration.

Having said this, I would like to focus my remarks on one aspect of this debate, that is the collaborative economy.

The sudden rise of the collaborative economy has not gone unnoticed. Be it Airbnb, Uber, private car rental or crowd funding.

I am grateful for the contribution from the Commission on the development in this field that has some similarities with the situation in Iceland. I can add that Iceland has some unique experiences in this field. Tourism has boomed in Iceland for the last few years. The increase is to such a degree that it exceeds the supply of available hotel accommodation. Airbnb has enabled us to accommodate this increase. To give you an example, last July in Reykjavik, 1 out of 23 apartments were registered at this single online marketplace. And in the center of town this ratio is 1 out of every 8 apartments. This is a growth of 80% in only 1 year.

For the same reason, we have also seen similar growth figures for the renting out of private cars.

This development required action from the authorities. Recently the Icelandic parliament approved legislation which provides the much needed legal framework for both those renting apartments on Airbnb and renting out their private cars. Some of it seems similar to what you described earlier. In our opinion, we have both managed to safeguard the interests of the consumer and the supplier, as well as addressing some of the societal aspects of this activity.

This is only one example of the challenges policymakers are faced with when it comes to the digital sphere. Technology is usually one or sometimes even ten steps ahead of the legal framework. While this was of course true before the digital age, what is remarkable with the technical developments that drive the collaborative economy is how rapid they are.

However, the simple awareness of this fact makes it easier to take on the challenge. We must force ourselves to think ahead, cooperate closely with those driving the development, the technology industry, interest groups and our established network of institutions. The challenge here is to create a framework that allows for innovation while also protecting the right of consumers, our right to privacy and intellectual property.

We believe that the EUs work on the Digital Single Market is heading in the right direction and trust that the outcome will be robust and durable for years to come.

As we see it, the EU will set the general framework in accordance with the rule of subsidiarity and the better regulation principle. Subsequently, not least when it comes to the collaborative economy, it should be up to each and every member of the internal market to regulate the details, according to need and specific circumstances.

Iceland will continue to follow closely the EU work in this field and we are always willing to share experience gained and expertise we have in this field.

### **Intervention of Minister Aurelia FRICK on behalf of Liechtenstein**

Mister Chairman, dear colleagues,

Liechtenstein welcomes the Commission's strategy for a Digital Single Market.

We fully support the goals of simplifying cross-border e-commerce and defragmenting the digital services market.

Promoting innovation in this economic sector and creating new sources of employment and growth are additional positive aspects.

Although not all of the measures foreseen might be EEA relevant, the achievement of a Digital Single Market will most certainly create new opportunities for EEA consumers and businesses across Europe.

It is important that adequate ways can be found to swiftly extend this market to the EEA.

Liechtenstein is prepared to contribute to the goals of a Digital Single Market, but we also hope that new legislative requirements will also take into account the inherent limitations of telecom markets in small countries.

Liechtenstein also supports the Commission's 'European Agenda for Collaborative Economy', as it helps increase the competitiveness of Europe as a whole. Liechtenstein proactively supports innovation, competitiveness and growth opportunities offered by the new collaborative economy.

This is especially relevant for our small and medium-sized enterprises. Roughly 99% of all Liechtenstein enterprises have less than 250 employees and thus qualify as SMEs. They provide for about two-thirds of the total employment in Liechtenstein. For them, and thus for our economy as a whole, the collaborative economy provides important opportunities for growth.

For these to materialize, existing EU law must be applied homogeneously throughout the Single Market. Moreover, the collaborative economy should not lead to new entry barriers into national markets.

Finally, any new rules applied to the collaborative economy should be clear both for consumers and undertakings.

We strongly believe that legal predictability and legal certainty are cornerstones for a successful business environment and sustainable growth.

To sum up, Liechtenstein welcomes the positive aspects of the collaborative economy and its potential for increased efficiency, growth and jobs.

Thank you.

## **6. ADOPTION OF THE CONCLUSIONS OF THE 46<sup>TH</sup> EEA COUNCIL**

### **Intervention of Minister Elisabeth VIK ASPAKER on behalf of the EEA EFTA States**

We have not been able to reach agreement on the Draft Conclusions of the EEA Council before the meeting. There are two outstanding issues.

The first concerns paragraph 1, which needs to be amended to take into account that there has been a late change with regard to the chairmanship of our meeting today. Can I assume that the EU side can agree to amend paragraph 1 accordingly?

The second outstanding issue concerns paragraph 26. The EEA EFTA States can approve the Conclusions provided this paragraph is deleted.

May I invite the EU Council Presidency to respond?

### **Intervention of Secretary of State Mr Lukas PARIZEK on behalf of the European Union**

Dear Colleagues,

The EU strongly regrets that it was not possible to reach a final agreement on the conclusions between the EU and the EEA EFTA sides before this meeting, due to diverging views on paragraph 26 concerning the joint management of the mackerel stock.

As you are well aware, the issue of the management of the mackerel stock in the North East Atlantic remains a highly sensitive political issue for the EU. We have not changed our position on the issue since our last meeting.

We remain convinced that a fair and comprehensive management regime, involving all States having a management responsibility for the mackerel stock is urgently required in order to avoid overexploitation and subsequent stock decline. We therefore strongly urge the concerned EEA Member States to continue their efforts to find a rapid resolution to this issue.

### **Intervention of Minister Elisabeth VIK ASPAKER on behalf of the EEA EFTA States**

May I give the floor to Iceland to respond?

**Intervention of Permanent Secretary of State Stefán Haukur JÓHANNESSON on behalf of Iceland**

While we would agree that responsible management of the mackerel stock is crucial, I would like to reiterate that the EEA Agreement does not cover fisheries management. It is therefore not appropriate to discuss at this meeting the management of the mackerel stock.

In addition, the proposed text in paragraph 26 on the mackerel issue is premature. Iceland places a great emphasis on reaching an overall agreement for all three stocks. We very much fear that the proposed inclusion could have a negative impact on this process and the possible results.

**Intervention of Secretary of State Mr Lukas PARIZEK on behalf of the European Union**

Dear Colleagues,

The EU does not wish to jeopardise the adoption of the rest of our conclusions, which is a priority for both sides. Thus, in a spirit of compromise, the EU delegation does not insist on maintaining paragraph 26 of the draft conclusions and agrees on its deletion, while not changing its position on the subject as such.

**Intervention of Minister Elisabeth VIK ASPAKER on behalf of the EEA EFTA States**

Thank you for the flexibility you have shown with regard to the conclusions, which are hereby adopted.

**7. OTHER BUSINESS**

**Intervention of Minister Elisabeth VIK ASPAKER on behalf of the EEA EFTA States**

We are then on the last item for today, namely other business. The EEA EFTA States do not have any further issues to raise. Would the EU side like to raise any other issues?

**Intervention of Secretary of State Mr Lukas PARIZEK on behalf of the European Union**

No, we do not wish to raise any other topic under 'Other business.'

**Closing remarks of Minister Elisabeth VIK ASPAKER on behalf of the EEA EFTA States**

We have then concluded the items of our agenda today. I would like to express my satisfaction with this meeting and to thank the Slovak Presidency, the European Commission, the European External Action Service, the Council Secretariat, and my colleagues from Iceland and Liechtenstein, for their participation and constructive dialogue in this meeting. We look forward to working with the Maltese Presidency in the months ahead.

**Closing remarks of Secretary of State Mr Lukas PARIZEK on behalf of the European Union**

From my side, I would like to close by thanking all of you for your attendance and your contributions to this interesting and constructive meeting.

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**46th meeting of the**

**EEA COUNCIL**

**(Brussels, 15 November 2016)**

**INDICATIVE LIST OF DELEGATIONS**

**I. THE GOVERNMENTS OF THE EEA – EFTA STATES WILL BE REPRESENTED AS FOLLOWS:**

**ICELAND (EEA EFTA CHAIR)**

H.E. Mr Stefán Haukur JÓHANNESSON	Permanent Secretary of State
H.E. Ms Bergdís ELLERTSDÓTTIR	Ambassador of Iceland to the EU, Brussels
Mr Finnur Þór BIRGISSON	Director European Affairs, Directorate for External Trade and Economic Affairs, Ministry for Foreign Affairs of Iceland
Mr Ragnar G. KRISTJÁNSSON	Minister, Deputy Head of Mission, Icelandic Mission to the EU
Ms Katrín SVERRISDÓTTIR	Coordinator for European Economic Area (EEA) cooperation, Prime Minister's Office and Ministry for Foreign Affairs
Mr Ingólfur FRIDRIKSSON	First Secretary, Icelandic Mission to the EU
Ms Sigríður EYSTEINSDÓTTIR	First Secretary, Icelandic Mission to the EU
Mr Andri JÚLIUSSON	First Secretary, Icelandic Mission to the EU
Ms Unnur Elfa HALLSTEINSDÓTTIR	Temporary Officer, Icelandic Mission to the EU

Ms Ingibjörg ARADÓTTIR  
Temporary Officer, Icelandic Mission to the EU

Ms Natalie MIZERA  
Attaché, Icelandic Mission to the EU

### **THE PRINCIPALITY OF LIECHTENSTEIN**

H.E. Ms Aurelia FRICK  
Minister of Foreign Affairs

H.E. Mr Martin FRICK  
Ambassador, Director of the Office for Foreign Affairs

H.E. Ms Sabine MONAUNI  
Ambassador, Liechtenstein Mission to the EU

Mr Stefan BARRIGA  
Minister, Deputy Head of Mission, Liechtenstein Mission to the EU

Mr Dominik MARXER  
Counsellor, Liechtenstein Mission to the EU

Mr Valentin FLATZ  
Temporary Officer, Liechtenstein Mission to the EU

### **THE KINGDOM OF NORWAY**

H. E. Ms Elisabeth VIK ASPAKER  
Minister of EEA and EU Affairs, Ministry of Foreign Affairs

H. E. Ms Oda Helen SLETNES  
Ambassador, Mission of Norway to the EU

Mr Jørn GLOSLIE  
Deputy Director General, Ministry of Foreign Affairs

Ms Grethe DALE JOHANSEN  
Senior Adviser, Ministry of Foreign Affairs

Ms Maria MARTENS  
Senior Adviser, Ministry of Foreign Affairs

Mr Knut HERMANSEN  
Minister Counsellor, Norwegian Mission to the EU

Mr Lars Erik NORDGAARD	Counsellor for Trade, Industry and Fisheries, Norwegian Mission to the EU
Ms Turi BAKKE	First Secretary, Norwegian Mission to the EU
Ms Wera HELSTRØM	Counsellor for Communications and Press, Norwegian Mission to the EU
Ms Line HAUGLAND	Communications Officer, Norwegian Mission to the EU

**II. THE EUROPEAN UNION WILL BE REPRESENTED AS FOLLOWS:**

**THE SLOVAK PRESIDENCY**

**(PRESIDENCY-IN-OFFICE OF THE COUNCIL OF THE EUROPEAN UNION)**

H.E. Mr Lukáš PARÍZEK	State Secretary, Ministry of Foreign Affairs
Mrs Ivana RAPAVÁ	Deputy Director, Office of the State Secretary
Mrs Iveta HRICOVÁ	Director General, SEZA
Mr Jan ŠTRBKA	Chair of the EFTA Working Party
Ms Lubica KARVASOVA	EFTA delegate
Mr Ondrej KRIŽKO	Coordinator, Office of the Permanent Representative of the Slovak Republic to the EU
Mr Miroslav DENCI	Desk Officer, Second territorial European department

## **COUNCIL OF THE EUROPEAN UNION - GENERAL SECRETARIAT**

Mr Matthew REECE Head of Enlargement Unit  
Ms Andreia VISCONTI IORDACHITA Desk Officer for Non-EU Western Europe

## **EUROPEAN EXTERNAL ACTION SERVICE**

Ms Angelina EICHHORST Managing Director for Europe and Central Asia, European External Action Service  
Mr Claude MAERTEN Head of Division, Western Europe  
Mr Florin NITA Desk officer European Economic Area (EEA)  
Mr Vaclav NAVRATIL Desk officer European Economic Area (EEA)  
Mr Martin SKYLV Desk officer for Norway, Iceland and Liechtenstein

## **EUROPEAN COMMISSION**

Mr Hubert GAMBS Director, Modernisation of the Single Market, DG Internal Market, Industry, Entrepreneurship and SMEs (DG GROW)  
Mr Tom DIDERICH International Relations Officer, DG GROW

**III. THE EUROPEAN FREE TRADE ASSOCIATION (EFTA) WILL BE REPRESENTED AS FOLLOWS:**

**EFTA SECRETARIAT**

Mr Kristinn F. ÁRNASON	Secretary-General
Mr Dag W. HOLTER	Deputy Secretary-General
Mr Tómas BRYNJÓLFSSON	Director, Services, Capital, Persons and Programmes Division
Ms Brit HELLE	Director, Goods Division
Mr Kyrre ISAKSEN	Head of EEA Legal Services
Mr Marius VAHL	Head of EEA policy coordination, Secretary to the EFTA Standing Committee
Ms Laurie Anne AGNESE	Information Coordinator, Secretary-General's Office
Ms Gabriella Unnur KRISTJÁNSDÓTTIR	Temporary Officer, Services, Capital, Persons and Programmes Division
Ms Katja MURPHY	Trainee

**EFTA SURVEILLANCE AUTHORITY**

Mr Sven Erik SVEDMAN	President
Ms Helga JONSDÓTTIR	College Member
Mr Frank BÜCHEL	College Member

**EEE 1606/16****PROGRESS REPORT**

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Subject: Progress Report by the EEA Joint Committee to the 46<sup>th</sup> meeting of the EEA Council

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**Decision making**

1. The EEA Joint Committee has adopted 211 Joint Committee Decisions (JCDs) incorporating 347 legal acts between 1 January and 28 October 2016. Since the last meeting of the EEA Council on 25 May until 28 October 2016, the EEA Joint Committee has adopted 109 JCDs incorporating 167 legal acts. In the same period of 2015, 165 JCDs incorporating 243 legal acts were adopted.
2. As of 1 November 2016, there were 517 outstanding legal acts where the compliance date in the EU had passed, compared to 432 acts on 1 May 2016. Since May 2016 therefore the overall number of outstanding legal acts has increased by 19.9%.
3. Since the last EEA Council, the EFTA side has continued to identify further actions needed to permanently reduce the number of outstanding acts and avoid their re-emergence.
4. The number of JCDs awaiting the fulfilment of constitutional requirements, where the six-month period had expired, decreased from 15 on 3 May 2016 to 11 on 1 November 2016.
5. Important decisions incorporated since the 45<sup>th</sup> meeting of the EEA Council include:
  - Decisions No 121/2016 on tachographs in road transport, repealing regulation on recording equipment in road transport and amending regulation on the harmonisation of social legislation relating to road transport.

- Decision No 127/2016 on establishing the standard form for the European Single Procurement Document.
- Decision No 155/2016 on the quality of water intended for human consumption.
- Decision No 161/2016 on technical regulations and standards on marine equipment.
- Decision No 194/2016 on online dispute resolution and alternative dispute resolution for consumer disputes.
- Decision No 198/2016-206/2016 on incorporating the regulations establishing the European Financial Supervisory Authorities (consisting of the European Banking Authority, the European Insurance and Occupational Pensions Authority and the European Securities and Markets Authority and the European Systemic Risk Board), the Directive on Alternative Investment Fund Managers, the Regulation on Short Selling, the Regulation on Credit Rating Agencies, and the Regulation on European Market Infrastructure.

### **Decision shaping**

6. The EEA EFTA States are participating in 14 EU programmes and 18 agencies, of which 13 were regulatory agencies and five executive agencies.
7. Since the last EEA Council, the EEA Joint Committee has taken note of EEA EFTA Comments on the following subjects, to which the EU side has provided oral and/ or written reactions:
  - The proposal on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency.
  - The proposal on the use of the 470-790 MHz frequency band in the Union.
  - The proposal on introducing a Services Passport.

### **Briefings in the Joint Committee**

8. Briefings on the following subjects were provided in the EEA Joint Committee:

- Capital controls in Greece,
- Capital controls in Iceland,
- Transatlantic Trade and Investment Partnership (TTIP) negotiations.

### **Status of outstanding issues**

9. The discussions on the following issues have not yet been concluded:

- the Directive on the Deposit Guarantee Scheme,
- the Third Package for the Internal Energy Market,
- the remaining part of the 2009 TELECOM package, including the Regulation establishing the Body of European Regulators for Electronic Communications (BEREC),
- the Third Postal Directive,
- the Regulation on Medicinal Products for Paediatric Use,
- the Marine Strategy Framework Directive,
- the Offshore Safety Directive,
- the EU legal acts in the area of organic production.

10. The Joint Committee has reiterated its determination to work towards the rapid conclusion of these issues.

## **Financial Mechanisms**

11. The Agreement on the EEA Financial Mechanism for the 2014-2021 period, with a total commitment of 1548.1 million euro, was ratified by Iceland, Liechtenstein and Norway and has been applied provisionally as of 1 August 2016. The Agreement on the Norwegian Financial Mechanism for the 2014-2021 period, with a total commitment of 1253.7 million euro, was ratified by Norway and has been applied provisionally as of 1 July 2016.
  12. For the period 2009-2014, 993.5 million euro has been set aside under the EEA Financial Mechanism and an additional 804.6 million euro under the Norwegian Financial Mechanism. Programmes and projects under both Mechanisms may be implemented until 2016.
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**CONCLUSIONS**

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Subject: Conclusions of the 46th meeting of the EEA Council  
(Brussels, 15 November 2016)

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1. The forty-sixth meeting of the EEA Council took place in Brussels on 15 November 2016 under the Presidency of Ms Elisabeth Vik Aspaker, Minister of EEA and EU Affairs of Norway. The meeting was attended by Ms Aurelia Frick, Minister of Foreign Affairs of Liechtenstein, Mr Stefán Haukur Jóhannesson, representing the Minister for Foreign Affairs of Iceland, and Mr Lukas Parizek, representing the Presidency of the Council of the European Union, as well as by Members of the Council of the European Union and representatives of the European Commission and the European External Action Service.
2. The EEA Council noted that, within the framework of the Political Dialogue, the Ministers would discuss Western Balkans, Ukraine/Russia, Migration, and the EU Global Strategy on Foreign and Security Policy. An orientation debate was held on the Digital Single Market, including the collaborative economy.
3. The EEA Council acknowledged the key role played by the EEA Agreement for more than 20 years in advancing economic relations and internal market integration between the EU and the EEA EFTA States. The EEA Council highlighted that the Agreement had been robust and capable of adapting to changes in EU treaties and EU enlargements. The EEA Council recognised that increased efforts towards enhancing competitiveness would be key for jobs and growth in Europe.

4. The EEA Council emphasised the importance of a well-functioning Single Market as a driver in boosting economic growth and creating new jobs throughout Europe, and welcomed the steps already taken to implement the proposals contained in the strategies for a Digital Single Market and for upgrading the Single Market, both launched in 2015, with a view to exploiting in full its untapped growth and productivity potential. The EEA Council agreed that a holistic approach is required to tackle some of the main challenges facing the Single Market, and stressed the importance of close involvement of the EEA EFTA States in the further design and development of single market policies and initiatives.
5. The EEA Council welcomed the adoption of the EEA Joint Committee Decisions of the first package of legal acts related to the EU Regulations on the European Supervisory Authorities in the area of financial services. The EEA Council also highlighted the high importance of promptly incorporating and applying the other outstanding legislation in the field of financial services as soon as possible in order to ensure a level playing field throughout the EEA in this important sector.
6. Noting the Progress Report of the EEA Joint Committee, the EEA Council expressed its appreciation for the work of the Joint Committee in ensuring the continued successful operation and good functioning of the EEA Agreement.
7. The EEA Council emphasised the importance of solidarity among the countries of Europe to overcome social and economic challenges. In particular, the EEA Council expressed concern regarding the continued high level of youth unemployment in some EEA Member States.
8. The EEA Council commended the positive contribution of the EEA and Norway Financial Mechanism 2009-2014 and of their predecessors in reducing economic and social disparities throughout the EEA and recognised the still existing need to alleviate social and economic disparities in the EEA.

9. The EEA Council welcomed the ratification of the Agreement on an EEA Financial Mechanism 2014-2021 by Iceland, Liechtenstein and Norway, and of the Agreement between Norway and the EU on a Norwegian Financial Mechanism for the 2014-2021 period by Norway. The EEA Council further welcomed the provisional application of the Agreement on a Norwegian Financial Mechanism for the 2014-2021 period as of 1 July 2016 and of the Agreement on an EEA Financial Mechanism 2014-2021 as of 1 August 2016.
10. The EEA Council also welcomed the provisional application of the Protocol on trade in fish and fisheries products between Iceland and the EU as of 1 August 2016 and of the Protocol on trade in fish and fisheries products between Norway and the EU as of 1 September 2016.
11. Emphasising the fact that greater knowledge of the EEA Agreement throughout the EEA is in the interest of all Contracting Parties, the EEA Council urged them to ensure that information on the EEA Agreement is made readily and easily available.
12. The EEA Council noted that free movement of capital is a fundamental internal market freedom and an integral part of the EEA acquis and acknowledged that restrictions can be implemented only temporarily on the basis of the provisions of Article 43 of the EEA Agreement. The EEA Council welcomed the progress of the comprehensive plan of the Icelandic Government for removal of capital controls without threatening economic and financial stability of the country.
13. The EEA Council placed great importance on continued close cooperation between the EU and the EEA EFTA States in environment, energy and climate change policies, particularly in light of the 2030 Framework for Climate and Energy and the Framework Strategy for a Resilient Energy Union with a Forward-Looking Climate Change Policy. The close cooperation should also continue in particular in the areas of internal energy market, energy security, emissions trading, promotion of competitive, climate resilient, safe and sustainable low carbon energy, energy efficiency, renewable energy resources, carbon capture and storage (CCS) and carbon capture and utilisation (CCU), as well as other environmental issues such as waste, chemicals, water resource management and industrial pollution.

14. The EEA Council recalled the historic global and legally-binding climate agreement reached in Paris in December 2015 and welcomed its entry into force on 4 November 2016, triggered by the EU ratification. The EEA Council welcomed the efforts undertaken by both EU Member States and EEA EFTA States to ensure speedy completion of their national ratification procedures and encouraged other countries to ratify as soon as possible.
15. The EEA Council welcomed the broad support the Joint Initiative on European Standardisation had achieved and the efforts the EU side had initiated with this successful collaborative co-regulation modernising the European Standardisation System. The EEA Council also acknowledged that the involvement and contribution from EFTA in this field is an illustration of efficient EU-EFTA cooperation supporting a homogenous EEA.
16. The EEA Council welcomed the ongoing efforts made to both reduce the number of EEA-relevant EU acts awaiting incorporation into the EEA Agreement and to accelerate the incorporation process. While commending all the steps undertaken in the course of the last years, the EEA Council noted that the number of acts awaiting incorporation was still too high. The EEA Council called for continued work in order to significantly and durably reduce the current backlog and thereby ensure legal certainty and homogeneity in the EEA. It urged all parties to engage constructively to find solutions to pending difficult issues.
17. With regard to the Third Package for the Internal Energy Market, the EEA Council welcomed progress made in recent months with regard to removing the remaining obstacles towards its incorporation in the EEA Agreement, notably as concerns the EEA EFTA participation in the Agency for the Cooperation of Energy Regulators (ACER), and underlined the importance of swiftly finalising this work in order to establish a fully functional internal market for energy.
18. The EEA Council welcomed progress made in recent months with regard to the 2009 regulatory framework for electronic communications (including the Regulation on the Body of European Regulators for Electronic Communications – BEREC), and the Regulation on Medicinal Products for Paediatric use.

19. The EEA Council noted that progress was still needed on a number of important outstanding issues and looked forward to reaching a conclusion as soon as possible, in particular regarding the Third Postal Directive, the EU legal acts in the area of organic production, as well as in the area of common rules and standards for ship inspection and survey organisations.
20. The EEA Council noted that there was a number of Joint Committee Decisions, for which the six-month deadline provided for in the EEA Agreement with regard to constitutional clearance had been exceeded. It encouraged the EEA EFTA States to strengthen their efforts to resolve the pending cases as soon as possible and to avoid such delays in the future.
21. The EEA Council acknowledged the significance of the negotiations on an ambitious, balanced and comprehensive free trade agreement between the European Union and the United States. The EEA Council welcomed the continuous exchange of information between the European Commission and the EEA EFTA States, initiated in the EEA Joint Committee in December 2014. Bearing in mind inter alia Protocol 12 to the EEA Agreement, the EEA Council encouraged a continuation of this exchange of information.
22. The EEA Council acknowledged that the Contracting Parties, pursuant to Article 19 of the EEA Agreement, had undertaken to continue their efforts with a view to achieving the progressive liberalisation of agricultural trade. The EEA Council looked forward to the signing of the Agreements on the further liberalisation of agricultural trade and on the protection of geographical indications between the EU and Iceland, which were initialled on 17 September 2015, in the near future. The EEA Council noted the suspension of the negotiations between the EU and Norway on protection of geographical indications :
23. The EEA Council welcomed the progress made in the negotiations between the EU and Norway on further liberalisation of agricultural trade within the framework of Article 19 launched in February 2015 and encouraged the parties to actively continue their efforts for further progress in the negotiations.

24. The EEA Council looked forward to the adoption of the Joint Committee Decision related to the agreement on the further liberalisation of trade in processed agricultural products within the framework of Article 2(2) and Article 6 of Protocol 3 to the EEA Agreement between Iceland and the EU, which was concluded on 17 September 2015, in the near future.
25. The EEA Council encouraged the Contracting Parties to continue the dialogue on the review of the trade regime for processed agricultural products within the framework of Article 2(2) and Article 6 of Protocol 3 to the EEA Agreement in order to further promote trade in this area.
26. Acknowledging the contribution made by EU programmes to building a more competitive, innovative and social Europe, the EEA Council welcomed the participation of the EEA EFTA States in EEA-relevant programmes to which they contribute financially.
27. The EEA Council recognised the active participation and full integration of the EEA EFTA States in the European Research Area and the successful association of Norway and Iceland in Horizon 2020, the EU's flagship programme for Research and Innovation. The EEA Council will continue to place high importance to the integration and policy alignment of EEA EFTA States with the EU in the area of research and innovation.
28. The EEA Council underlined the importance of continuing the practice of inviting officials from the EEA EFTA States to political dialogues held at the level of the relevant EU Council working parties.
29. The EEA Council underlined the importance of inviting EEA EFTA Ministers to informal EU ministerial meetings and ministerial conferences relevant to EEA EFTA participation in the Internal Market, and expressed its appreciation to the current Slovak and incoming Maltese Presidencies for the continuation of this practice.
30. The EEA Council recognised the positive contributions made by the EEA EFTA States to the decision-shaping process of EEA-relevant EU legislation and programmes through their participation in the relevant committees, expert groups, studies and agencies, as well as through the submission of EEA EFTA Comments.