

EUROPEAN ECONOMIC AREA  
Council of the EEA

Brussels, 14 May 2018  
(OR. en)

EEE 1604/18

## DRAFT MINUTES

---

Subject: Draft minutes of the 48th meeting of the EEA Council  
Brussels, 14 November 2017

---

**DRAFT MINUTES**

**of the 48th meeting of the**

**EEA COUNCIL**

**(Brussels, 14 November 2017)**

## CONTENTS

### Page

1.	Adoption of the Provisional Agenda (EEE 1605/17) .....	5
2.	Approval of the minutes of the 47 <sup>th</sup> meeting held in Brussels on 16 May 2017 (EEE 1608/17) .....	5
3.	Progress report by the EEA Joint Committee (EEE 1607/17) .....	5
4.	Resolutions of the EEA Joint Parliamentary Committee adopted at its 49 <sup>th</sup> meeting in Reykjavik on 23 May 2017 on <i>the Annual Report of the EEA Joint Committee on the Functioning of the EEA Agreement in 2016</i> .....	5
5.	Resolutions of the EEA Consultative Committee adopted at its meeting in Prague on 7 June 2017 on the <i>Social Dimension of the EEA and the European Pillar of Social Rights</i> , and on <i>Digitalisation and its impact on jobs and skills</i> .....	5
6.	Assessment of the overall functioning of the EEA Agreement .....	6
7.	Orientation Debate: <i>Measures to develop the European data economy</i> .....	22
8.	Draft Conclusions of the EEA Council (doc. 1606/17) .....	30
9.	Other business .....	32

\*\*\*

<u>Annex I:</u>	List of Delegations .....	33
<u>Annex II:</u>	Progress report by the EEA Joint Committee (EEE 1603/17) .....	37
<u>Annex III:</u>	Conclusions of the 47th meeting of the EEA Council (EEE 1602/1/17 REV 1) .....	41
<u>Annex IV:</u>	Slides on Building a European Data Economy by the services of the Commission .....	48

The EEA Council held its 48<sup>th</sup> meeting in Brussels on 14 November 2017.

The meeting was chaired by Ms Aurelia FRICK, Minister for Foreign Affairs of Liechtenstein, who led the EEA EFTA delegation accompanied by Mr Guðlaugur ÞÓR ÞÓRDARSON, Minister for Foreign Affairs of Iceland and Ms Marit BERGER RØSLAND, Minister of EEA and EU Affairs of Norway.

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

The EU delegation was led by Mr Sven MIKSER, Minister for Foreign Affairs of Estonia, accompanied inter alia by representatives of the General Secretariat of the Council, the European External Action Service and the European Commission.

#### **Opening statement of Minister Aurelia FRICK on behalf of the EEA EFTA side**

Co-chair, dear colleagues,

I welcome you to the 48<sup>th</sup> meeting of the EEA Council. I propose that we deal with the first five items of the agenda without prior discussion.

#### **Intervention of Minister Sven MIKSER on behalf of the European Union**

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

It is a great pleasure for me to welcome you here in the premises of the Council of the European Union for our 48th EEA Council meeting.

We are especially pleased to welcome here among us today the new Minister of EEA and EU Affairs of Norway, Ms BERGER RØSLAND. Congratulations on your appointment and we wish you every success with your newly assumed responsibilities.

Before we go into the substance of our agenda, I would like to thank you all for the excellent cooperation in finalising the arrangements for this meeting. We extend special thanks to the EFTA Secretariat for their great support in the organisation of this meeting.

To save time, I would like to confirm that we agree to deal with items 1 to 5 of our Agenda without discussion.

1. **ADOPTION OF THE AGENDA**

The EEA Council adopted the Agenda, as set out in EEE 1605/17 + COR 1.

2. **APPROVAL OF THE MINUTES**

The EEA Council approved the minutes of the 47th meeting of the EEA Council, which took place in Brussels on 16 May 2017, as set out in EEE 1608/17.

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 1607/17.

4. **RESOLUTIONS OF THE EEA JOINT PARLIAMENTARY COMMITTEE**

The EEA Council took note of the Resolutions of the EEA Joint Parliamentary Committee adopted at its 49th meeting in Reykjavik on 23 May 2017 on *the Annual Report of the EEA Joint Committee on the Functioning of the EEA Agreement in 2016*.

5. **RESOLUTIONS OF THE EEA CONSULTATIVE COMMITTEE**

The EEA Council took note of the Resolutions of the EEA Consultative Committee adopted at its meeting in Prague on 7 June 2017 on the *Social Dimension of the EEA and the European Pillar of Social Rights*, and on *Digitalisation and its impact on jobs and skills*.

## 6. ASSESSMENT OF THE OVERALL FUNCTIONING OF THE EEA AGREEMENT

### Intervention of Minister Aurelia FRICK on behalf of the EEA EFTA side

Thank you, these points are then adopted. That takes us directly to item 6, the assessment of the overall functioning of the EEA Agreement.

Dear Colleagues,

#### (General remarks)

After several challenging years, a new sense of economic and political optimism is emerging in Europe. And while we should remain guarded in our optimism, the economic growth we are now witnessing indicates that we are on the right track. But this is not the time for complacency. We must intensify our efforts in securing growth and prosperity for our citizens.

Our close cooperation with the European Union through the EEA Agreement plays an important role in this respect. Now more than ever, it is fundamental to preserve and strengthen this cooperation in order to consolidate the positive economic trend.

The improved economic outlook in Europe is accompanied by a renewed discussion on the future of Europe. A prosperous European Union is in the interests of the EEA EFTA States, as it ensures a strong Internal Market that benefits all countries in the European Economic Area.

This year it is 25 years since the signing of the EEA Agreement in Porto. Since then, the cooperation between the EEA EFTA States and the EU has evolved considerably. In Porto back then, nobody would have expected the deep changes to come for the European Communities – now the European Union.

At the same time, the EEA Agreement has shown itself flexible enough to help bring about practical – but essential – solutions to challenging issues that have arisen. Deep into its third decade, it remains an effective arrangement for bringing our countries closer together. We can thus be optimistic about our future relations as well.

(Challenging issues: EU – EEA EFTA cooperation)

Despite the optimistic picture, however, a touch of realism is needed as well. In recent years, we have been confronted with a number of particularly difficult issues in our cooperation. These have challenged us to intensify our efforts in finding common solutions.

On the EEA EFTA side, we have reviewed and modified our internal procedures. Straightforward legislation is now processed more swiftly, and challenging issues are addressed earlier. Indeed, it is crucial that the EEA EFTA States and the EU work closely together to ensure that the solutions we agree upon are both efficient and durable. For this purpose, we need to devote sufficient resources, on both sides, to our evolving agenda.

We have seen in recent months that the processing of important legal acts and packages has been delayed on the EU side, either in the Commission or because approval from the EU Council was sought – also on rather technical and straightforward acts. There is room to improve our dialogue with a view to avoiding delays. It is often most efficient to sit down together and discuss files directly and informally, at technical, legal or political level.

(Progress on incorporation of legal acts)

Since our last meeting, we have incorporated a number of acts into the EEA Agreement that are extremely important for our citizens and businesses. For example, EEA citizens can now also “roam like at home”. We have also adopted new rules on reducing CO<sub>2</sub> emissions and setting emission performance standards for vans and cars, which brings us closer to our goal of sustainable and energy-efficient societies.

### (Financial services)

On the other hand, progress has been much slower in one particularly important area: financial services. Following the breakthrough concerning the ESAs (European Supervisory Authorities) last autumn, one can hardly avoid the impression that we are making almost no progress anymore. During these twelve months, we only managed to adopt one single JCD incorporated nine acts regarding over-the-counter derivatives. The number of 9 incorporated acts stands in stark contrast to the roughly [300] acts still outstanding in the field of financial services. This field now represents almost half of the current backlog. In order to return to a level playing field in financial services, we must therefore up our game.

Recently, we have seen some positive signs. The dialogue initiated between experts from the EEA EFTA States and the Commission, including its Legal Service, is highly welcome. We also appreciate the commitment expressed at political level by Commission Vice President Dombrovskis, who met our Finance Ministers twice in recent weeks on this matter. Nonetheless, additional and concrete steps remain to be taken in order to achieve real progress on this issue. We owe no less to our market operators and consumers.

### (Regulatory agencies)

Another challenging issue for EEA cooperation has been the participation of the EEA EFTA States in relevant EU agencies and supervisory authorities. Such participation remains essential to ensure common regimes and to avoid fragmentation in the EEA.

Whilst our participation in most agencies remains unproblematic, the trend of granting EU agencies decision-making powers has challenged the principles laid down in the EEA Agreement and in our constitutions. So far, we have been able to find mutually acceptable solutions for our participation in regulatory agencies in sectors such as financial services and energy. In other areas, such as data protection and telecommunications, we need to continue our work. Ultimately, the goal is to ensure that our common rules are applied in the same way throughout the EEA.



(Financial mechanisms)

The EEA EFTA States continue to contribute to the reduction of social and economic inequalities in Europe. The EEA Financial Mechanisms 2014-2021, which entered into force on 1 September, represent the most ambitious effort from our side towards this common goal.

We are pleased that progress has been achieved in negotiating additional Memoranda of Understanding since our last meeting. So far, eight have been signed, namely with Romania, Slovakia, Bulgaria, Malta, Estonia, Portugal, Czech Republic and Greece. We are confident that we will conclude the remaining MoU's in the coming months.

(UK withdrawal from the EU)

In the political dialogue earlier this morning, we continued our discussions on the UK's withdrawal from the EU and its consequences for the EEA. There is therefore no need to repeat the details of our discussions, yet we wish to raise a few general points in this format as well.

The UK's withdrawal from the EU will have direct implications for all participants in the Single Market, including the EEA EFTA States. We therefore appreciate the close consultations held on this matter so far, both on political as well as on technical level. We would furthermore like to underline that any transitional arrangements entailing the continued application of Single Market rules for a time-limited period after United Kingdom's withdrawal from the EU should also be extended to the EEA EFTA States simultaneously.

In addition, to avoid the risk of fragmentation within the Single Market, the EU27, the United Kingdom and the EEA EFTA States should agree on necessary arrangements concerning certain terms of withdrawal pertaining to the Single Market which affect the European Economic Area. We look forward to continuing our close cooperation on this extremely important matter.

(Closing remarks)

Dear colleagues, despite the challenges I mentioned, there is reason to conclude on an optimistic note. Overall, the EEA Agreement continues to function well in promoting the harmonious development of our common Internal Market. This is on the one hand due to the Agreement itself, which provides us with the necessary flexibility to find mutually acceptable solutions. On the other hand, this is due to the spirit of cooperation and the increased dialogue between both sides. This is indeed the recipe for maintaining a dynamic and homogenous EEA.

Finally, I would like to thank the outgoing EU Chair, the Estonian Presidency, for the good and constructive cooperation, and forthcoming and close dialogue during this term. We especially appreciate the way in which you have facilitated our participation in informal EU Council meetings and in political dialogues, which are important venues for fostering closer ties with all of our European colleagues. We look forward to working with Bulgaria during its Presidency of the EU Council in 2018.

Thank you.

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

**Intervention of Minister Sven MIKSER on behalf of the European Union**

Dear colleagues,

Let me start by recalling, once again, the importance of the meetings of the EEA Council, which give us the opportunity to assess the implementation of the EEA Agreement and to have a useful exchange of views on some of its aspects.

Since our last meeting in May this year, the EEA Agreement has continued to function in a satisfactory manner and it has maintained its key role in advancing economic relations and Single Market integration between the European Union and the EEA EFTA States.

The EEA Agreement is a successful model of cooperation and we must jointly make sure this stays so in the future. As we all know, the United Kingdom's withdrawal from the EU will also affect the EEA Agreement. In this context, safeguarding the EEA Agreement, ensuring the continuation of a well-functioning, homogenous EEA and preserving the integrity of the Internal Market are of crucial importance to all concerned. Looking at our past shared history and at our very good and close relations makes me confident that we will be able to overcome any challenges - be they current or future ones - and continue moving forward together.

I would like to turn to a few specific issues relating to the functioning of the EEA Agreement.

Firstly, I would like to welcome the recent entry into force of the agreements between the EU and the EEA EFTA States and the EU and Norway on new financial mechanisms. I would also like to welcome the signing of the Memoranda of Understanding with 8 EU Beneficiary States which, we are confident, will help an important number of projects in areas such as innovation, research, education and competitiveness.

We look forward in particular to the positive contribution of the financial mechanisms to reduce youth unemployment, which continues to be at high levels in some Member States and which, therefore, remains an issue of serious concern.

On trade in agriculture, we would like to welcome the ratification of the Agreements between the European Union and Iceland on additional trade preferences in agricultural products and on the protection of geographical indications for agricultural products and foodstuffs. We look forward to the entry into force of these Agreements, on 1 May 2018.

As regards Norway, we would like to inform you that the Council should adopt next week, on 20 November, its Decision on the signing, on behalf of the European Union, of the agreement between Norway and the European Union on further liberalisation of agricultural trade within the framework of Article 19 of the EEA Agreement. The Estonian Presidency hopes to organise the signing ceremony for the Agreement with Norway before the end of its term in office. For the conclusion of the Agreement, the Council needs to receive the consent of the European Parliament. If everything goes smoothly, as we hope, this should happen by autumn 2018.

In the context of bilateral relations with Norway, we would also like to reconfirm our interest in resuming the negotiations on the protection of geographical indications for agricultural products and foodstuffs.

The cooperation between the European Union and EEA EFTA States within the framework of the EEA Agreement is generally very positive.

The 104 Joint Committee decisions, incorporating 193 legal acts, since our last meeting on 16 May, are the best proof of our increased cooperation in a large number of fields, such as innovative technologies for reducing CO2 emissions, collective management of copyright and related rights or defence research.

We welcome ongoing efforts to reduce the backlog. However, the number of legal acts whose incorporation into the EEA Agreement has been delayed remains high. More needs to be done in this respect and efforts towards a streamlined incorporation and application of the EEA relevant legislation should be continued.

We hope that the outstanding legislation, in particular 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.

Another pending issue concerns challenges relating to the management of the stocks of mackerel, Atlanto-Scandian herring and blue whiting in the northeast Atlantic. We will return to this issue under item 8 of our meeting in the context of adopting the EEA Council's conclusions.

With that, I will now give the floor to the EEAS representative, speaking on behalf of the Commission, who will report to you in more detail on the day-to-day functioning of the EEA Agreement.

Thank you for your attention.

## **Intervention of Director Thomas MAYR HARTING on behalf of the EEAS**

Dear Ministers, Mr Chairman, Honourable Delegations,

I am very pleased to have this opportunity to share with you, on behalf of the External Action Service and the European Commission, our views on the functioning of the EEA Agreement.

I am pleased to confirm from the outset that, if we look back in time that EEA Agreement has proven to be a solid basis on which we have built our relations in the last 25 years. Throughout all these years it has well coped with all the challenges imposed on it by the fast developing environment.

The Agreement has always proved to be the anchor in times of change and I am confident that it will continue to play this role also in the future.

In the last 25 years you have taken over more than 10,000 EU legal acts, which became an integral part of your legislative environment. In this context we welcome your increasing involvement in decision shaping which is well evidenced by the raising amount of the "EEA EFTA comments" on the Commission legislative proposals. It well illustrates the interest of EEA EFTA countries to become more active notably in the early stages of the regulatory process.

We share together the four freedoms: free movement of goods, services, capital and persons as well as other rights as the right of establishment. Some may say that these are only phrases that we have heard numerous times. But these overarching principles have very tangible impact. Organic salmon from Norway can be freely marketed in the EU. A German engineer can work in Iceland on constructing an ambitious geothermal power plant together with experts on drilling from Romania. Norwegian or Icelandic students can study at Charles University in Prague, without any administrative hurdles.

These are all examples of how the EEA Agreement influences everyday lives of our citizens and the strength of the Agreement in bringing our economies and people together will continue to guide and inspire our efforts for the months and years to come.

## **Achievements**

It can sometimes be difficult to spot the major developments in our regular and daily business of processing internal market related regulations.

However I can assure you that a lot has happened since our last meeting in May this year. One first example of this is the incorporation of Regulation 2017/920 as regards **rules for wholesale roaming markets**. This important legislative act became applicable simultaneously in the EU as well as in the EEA EFTA Countries on 15 June 2017, just several weeks after its adoption.

On 1 September 2017, the Agreement on the EEA Financial Mechanism and on the Norwegian **Financial Mechanism** for the 2014-2021 period was ratified by all contracting parties, and entered into force.

In the same vein, the number of beneficiary states with which a **Memorandum of Understanding** was already concluded has further expanded. This is surely good news for project operators in Romania, Slovakia, Bulgaria, Malta, Estonia, Portugal, the Czech Republic, and Greece.

I understand that most of the remaining MoU's are underway and can be expected to be signed soon. All MoU's have been concluded in full respect of agreed principles for the implementation of EEA/Norway grants.

I would like to highlight **the importance of support to civil society**, which amounts to minimum 10% of the envelope for every country. We all agree on the importance of a free and vibrant civil society for our democracies, and the high level of financing makes EEA/EFTA states important contributors to civil society in many EU beneficiary countries.

The EEA Agreement has also allowed us to further deepen our cooperation. Just recently on 27 October, the EEA Joint Committee has adopted a decision in which it opens possibilities for cooperation the area of **defence research**.

The HRVP, Frederica Mogherini stressed recently that these days our citizens all across Europe put security among the first, second priorities. So, we have a duty to deliver as Europeans and this is also what we have decided in the context of the Preparatory Action on defence research. This is a remarkable example of our cooperation based on the EEA Agreement and how we can use all its flexibility to cover new areas of political importance.

Let me mention that we very much value the existing level and quality of trade with the three EEA EFTA countries Norway, Iceland and Liechtenstein. There are further progresses to make in a more bilateral framework, it is not the place to look at those questions, but let me recall the strong EU's commitment to continue our discussions on trade issues, agriculture, fisheries, geographical indications to name but a few.

I am pleased to inform you that on 19 October the Council notified the Icelandic side of the completion of the EU adoption procedures for the EU-Iceland **agricultural trade liberalisation agreement** under Article 19 of the EEA Agreement and the **Agreement on Geographical Indications** (GIs). They can therefore enter into force on 1 May 2018.

We hope that building on this success we will be able to conclude the agreement on GIs in the future also with Norway.

### **Challenges**

The EEA Agreement is offering us many opportunities, but it does not mean that there are no areas for improvement.

Despite all our efforts, we still have not managed to reduce the high amount of legal acts pending incorporation into the EEA Agreement. As you can see in the Progress Report, which was on our agenda earlier today, the so called backlog has increased by additional 8% since our last meeting in May.

As already mentioned by some of the speakers today, almost half of these pending acts is in the area of financial services, and we need to do our utmost to speed up the incorporation process.

I can assure you that this issue is very high on our agenda and we will mobilise all our efforts to achieve progress. I am pleased to say that in the recent weeks there were some **positive developments** and if everything goes well, several important files shall be ready for adoption by the next meeting of the EEA Joint Committee in December 2017. I am confident that our next meeting in May 2018 will confirm the good developments.

Let me also note that more than a half of the current backlog lies **outside** of the financial services area. A large part of it has accumulated in the recent two years. Let me therefore invite you to take the full advantage of the streamlined procedures on your side and particularly the fast track procedure. If the Roaming regulation could enter into force simultaneously, the others can also be incorporated faster.

It is needless to note that the higher the backlog is the higher is also the legal uncertainty for all operators in our Internal Market. These 540 legal acts **represent about 10%** of all EEA relevant acquis in the area of Internal Market and we feel that collectively we can do better than that.

In our last meeting we have praised the incorporation after many years of the **Third Energy Package, and the Paediatric Regulation**. Unfortunately none of them has entered into force in your countries yet, although the six months period for fulfilment of constitutional requirements already expired.

Let me therefore underline that if we want to win, we need to take the last step into the finish, otherwise we risk that all the invested efforts would be lost.

Mr Chairman, Honourable Delegations, dear Colleagues,

Europe is visibly regaining its strength. The European Union is now in its fifth year of an economic recovery that reaches every single Member State. With growth now above 2% for the EU as a whole – and 2.2% for the euro area – Europe's economy has grown faster than that of the United States over the last two years.

Almost 8 million jobs have been created in the EU since 2014. Leaders in Rome in March 2017 declared their will to make the European Union stronger and more resilient, through even greater unity and solidarity and the respect of common rules.



To make the most of the current momentum, we shall build on the Roadmap for a More United, Stronger and More Democratic Union, which President Juncker presented alongside his State of the Union address on 13 September 2017.

We shall ensure that that Europe's focus remains firmly on the big things, where European action has a clear and demonstrable added value.

It is therefore essential to complete the Digital Single Market, the Capital Markets Union, the Banking Union, the Security Union and a comprehensive European migration policy and we are very pleased, that the EEA EFTA Countries are on the board with us.

Before I conclude my presentation, let me also take the opportunity to thank the President of the EFTA Surveillance Authority Mr. Sven Erik Svedman and the College Member Ms Helga Jonsdóttir for their excellent work in the last three years. We are also looking forward to cooperating with their successors who have just been appointed, and who will take their position on 1 January 2018.

Thank you for your attention.

**Intervention of Minister Aurelia FRICK on behalf of the EEA EFTA side**

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

**Intervention of Minister Guðlaugur ÞÓR ÞÓRÐARSON on behalf of Iceland**

Let me start by echoing my colleagues thanks to the Estonian Presidency. We highly value the openness and spirit of co-operation that the Estonian Presidency has demonstrated during the past months and we wish you all the best in the final weeks of your presidency.

As previous speakers have already remarked, we celebrated this year that a quarter of a century has passed since the EEA Agreement was signed in Porto. This landmark demonstrates the durability of the EEA. While we have certainly encountered some challenges during these past 25 years, both sides have shown the necessary pragmatism and spirit of compromise needed to find solutions that have allowed the EEA to develop and adapt while the basic framework of the Agreement has remained unchanged.

Iceland is as committed to the EEA Agreement as it was 25 years ago. The Agreement continues to be one of the key pillars of Iceland's Foreign Policy and Iceland's participation in the EEA enjoys wide support in Iceland. The European Union and its Member States are among Iceland's most important partners. This partnership is obvious when it comes to trade, but it also extends to culture, education, science and research, to just name a few examples. In all these areas, the EEA Agreement has proven to be the most suitable framework to manage Iceland's relations with the European Union.

Overall, the EEA Agreement is in good health. The examples of real and direct benefits that our citizens enjoy because of the EEA Agreement are numerous and growing. Take "Roam like Home", which is perhaps the latest example. This summer the EU rules on roaming were made part of the EEA Agreement and we can now "roam like home" anywhere in the EEA. This is an example of how the EEA should work, by making it easier for our nationals and companies to do business with one another and move across borders without having to deal with barriers or obstacles.

But while we can all agree that the EEA Agreement functions well, it is also important to stress that its continued good functioning remains a shared responsibility of all the Contracting Parties. As has already been noted by my colleagues, in recent months there has been slow progress on important files, particularly in financial services. It is vital that both sides demonstrate the necessary engagement and flexibility so that things can move forward. I would therefore like to take this opportunity to echo my colleagues call for continuing the improved dialogue, which has been realised in the last weeks.

Finally, I would like to express my thanks for the frank and open discussions we had earlier today on the subject of Britain's exit from the European Union. We appreciate the openness in regularly informing the EEA EFTA side on developments in the Article 50 negotiations with the UK. This dialogue should be continued, with a renewed focus on mapping out what impact Brexit may have on the functioning of the EEA Agreement and identifying what arrangements would be suitable to address those consequences.

## **Intervention of Minister Marit BERGER RØSLAND on behalf of Norway**

Dear chairs,

Dear colleagues,

I welcome this opportunity to take part in the EEA Council meeting, and I am delighted to be here for the first time.

### *General remarks*

Norway strongly believes that European cooperation is crucial for finding solutions to common challenges and for securing a safe and economically strong Europe.

With the emerging economic and political optimism in Europe, some might think that European cooperation is becoming less important. However, the Norwegian Government's position remains firm: participation in European cooperation is more important than ever. The EEA Agreement continues to be the backbone of Norwegian European policy. It provides a stable and predictable framework for our economic relations with the EU and the other EEA EFTA members, and it plays a key role in Norway's economy and development.

### *The Presidency*

Yesterday I visited Sofia for talks with my Bulgarian counterpart on Bulgaria's upcoming presidency. I was pleased to hear that they are committed to strengthened cooperation. I would also like to convey my sincere appreciation to the current EU chair, Estonia, for your hard work and dedication throughout your presidency.

We welcome – and share – your priorities, particularly your focus on the digital agenda. We value the close cooperation between the EU presidencies and the EEA EFTA states, not least the inclusion of the EEA EFTA states in informal ministerial meetings. This is important not just for us, but for all 31 EEA countries.

Further to the points made by our Chair, I would like to highlight the following:

*The functioning of the Agreement (the backlog)*

The Norwegian Government attaches great importance to the proper functioning of the internal market. This is in the interests of all, businesses and consumers alike.

I would like to emphasise that the functioning of the Agreement is a shared responsibility. Both the EU and the EEA EFTA states must work efficiently to reduce the backlog of legal acts awaiting incorporation to a minimum. As mentioned by my colleague, there is room to improve our dialogue with a view to avoiding delays.

The un-abating backlog in the field of financial services is an area of particular concern, as discussed among our ministers of finance and the Commission last week. It is our common responsibility that find solutions that can bridge gaps between the entry into force in the EU and the inclusion into the EEA Agreement of acts in this area, in order to eliminate or reduce negative effects. I trust that we can find good political solutions to these issues.

I would like to thank the EEAS for their efforts to facilitate the incorporation of legal acts. There is still a need to strengthen dialogue with the Commission services at an early stage in order to find solutions that are acceptable for both sides.

Although we still have a considerable backlog, I am pleased to note that we have found solutions for many of the packages we have worked on in recent years. I am particularly pleased that the Joint Committee decision on the Preparatory Action on Defence Research was adopted in October, and I would like to take the opportunity to thank the Council, the Commission, the EEAS and my EFTA colleagues for their flexibility and efficiency.

Norway will continue to focus on internal procedures in order to meet agreed deadlines.

### *The social dimension*

The EEA Agreement ensures Norway's participation in the internal market. We cooperate closely in most policy areas. One area of particular importance to Norway is the social dimension. In recent years, a number of commendable initiatives have been taken to strengthen the social dimension of the European Union, most notable of which is the European Pillar of Social Rights. We believe that the social dimension is important and appreciate that work is being done to ensure decent and fair working conditions for all.

But it is also important to recognise the existing measures that works. That is why the Nordic Ministers invited Commissioner Thyssen to take into account the special features of the Nordic Labour Markets when preparing the Commission's proposal for the European Pillar of Social Rights.

Later this week, my Prime Minister Erna Solberg, will attend the Social Summit in Gothenburg. There she will highlight the importance of combating undeclared work and illegal activities in the labour market. This is a priority for the Norwegian Government.

Prime Minister Solberg has also written to Commission President Juncker to propose closer European cooperation in this area, including the development of a coherent European strategy for combating undeclared work and illegal activities in the labour market. The aim is to enhance the coordination of efforts between the various authorities involved, such as the police, the tax authorities, the social security authorities and the labour authorities.

Let me conclude by saying that we look forward to continued close cooperation. We are confident that – together – we will be able to address the remaining issues in a pragmatic and flexible manner.

Thank you.

### **Intervention of Minister Aurelia FRICK 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 "Measures to develop the European data economy".

#### **7. ORIENTATION DEBATE ON THE 'MEASURES TO DEVELOP THE EUROPEAN DATA ECONOMY'**

### **Intervention of Minister Aurelia FRICK on behalf of the EEA EFTA States**

Dear colleagues,

The Digital Single Market is an important element for the future development of the EEA Agreement. Indeed, this is the third time in the last three years that the Digital Agenda has been covered in the orientation debates in the EEA Council; in May 2015, when the Commission presented its Digital Single Market Strategy, and again last November, when we discussed the collaborative economy.

Today, our focus is on the European data economy. We look forward to discussing the measures required to develop this increasingly important aspect of our economies. I give the floor to the EU Council Presidency.

### **Intervention of Minister Sven MIKSER on behalf of the European Union**

Dear Colleagues,

First of all, let me say that I am delighted to hold an orientation debate on this very important topic. Data is an essential resource for economic growth, social progress and innovation and is central for Europe's competitiveness.

Digital technologies such as Big Data, Internet of Things and Cloud computing are important enablers for productivity and better services. These global trends hold enormous potential in various fields, ranging from health, environment, food security, climate and resource efficiency to energy, intelligent transport systems and smart cities. The data economy also involves a great variety of market players such as manufacturers, researchers or infrastructure providers.

The estimates predict that, provided the right policy and legal conditions for data and data flows are in place in time, the value of the EU data economy will increase to EUR 739 billion by 2020, representing 4 percent of the overall EU GDP.

Already in October 2013, the **European Council**, which focused on the digital economy, innovation and services as drivers for growth and jobs, called for EU action to provide the right framework conditions for a single market for big data and cloud computing. On several occasions since, the **European Council** has followed up on this request by calling for specific EU action on the free flow of data.

In January 2017, the European Commission adopted one of the many Digital Single Market Initiatives - the communication on building the European Data Economy. This outlines a number of issues surrounding the data ecosystem, in particular restrictions on the free movement of data, data access and transfer, liability issues and the portability of data.

This initiative was followed in September 2017 by a legislative proposal on the European framework for the free flow of non-personal data, complementing the existing rules for personal data set out in the General Data Protection Regulation, and aiming to create a coherent set of rules for data in Europe. The proposal addresses the obstacles preventing the free movement of non-personal data within the EU, in particular by removing unjustified localisation restrictions for the storage or processing of the data while, at the same time, ensuring availability of the data to competent authorities. It also encourages the development of self-regulatory codes of conduct with regard to porting of data from one IT environment to another.

From the Council perspective, a legislative proposal on this topic has been long called for by many Member States. At its meeting of 19 October, the **European Council** confirmed the urgency of the issue by asking co-legislators to agree on the proposal by June 2018.

In its conclusions, the European Council also highlighted the importance of ensuring adequate rules on data flows in trade agreements with third countries.

The proposal on the free flow of data is a priority for the Estonian Presidency. It is now being analysed in the preparatory Council bodies, with the view to meet the deadline set by the European Council.

The Council is also awaiting other initiatives in the field of European Data Economy, in particular on the accessibility and re-use of public and publicly funded data and the proposal on fairness in platform-to-business relations. These were announced by the Commission in its 2018 work programme.

The issue of data flows in trade agreements with our non-European partners will also need to be considered.

To conclude, let me say that as the data-driven transformation reaches into the economy and society, a well-functioning European Data Economy is essential. We need a strong and future-proof policy and legal framework that will address legal uncertainties created by the new data technologies, and that will allow the economy and the society to benefit from this fourth industrial revolution.

With that, I would like to pass the floor to the European Commission, who may wish to add some considerations on the subject.

### **Intervention of Director Pearse O'DONOHUE on behalf of the European Commission**

Director Pearse O'DONOHUE (European Commission, DG Connect) made a presentation on the topic (see Annex IV set out below).



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

It is no coincidence that we are discussing "Measures to develop the European Data Economy" at a time when Estonia is holding the EU Presidency. Estonia has firmly established itself as a leader in the digital field. It serves as an excellent example especially for small States that wish to pursue the economic and social opportunities of the digital age. Liechtenstein is certainly one of them.

The Liechtenstein Government strongly believes in digitalisation and is currently working on a new Digital Agenda. An increasing number of services by the public administration is being made available electronically, and we continue to improve the conditions for our businesses to thrive in digital markets. This requires a great degree of interaction with private sector actors who are at the forefront of new technologies and new business models.

This is particularly true for the financial sector. In recent years, Fintech companies have brought new impetus to this field, with active support from the Government. For example, our Financial Markets Authority offers a so-called "Regulatory Lab", which helps Fintech companies finding the correct regulation. Another example is the Liechtenstein "Innovation Club": An avenue for our entrepreneurs to share their ideas for improving our framework with the administration.

Liechtenstein is also an attractive location for data services, especially in light of its high-tech-oriented industry and advanced IT infrastructure. The strengthening of the European Data Economy, in particular the continued removal of barriers to the free flow of data, is thus also of utmost importance for our country, and for the European Economic Area as a whole. Going forward, we would however like to highlight two important challenges.

One such challenge is the need to ensure a smooth and timely incorporation of the General Data Protection Regulation into the EEA. We are hopeful that in doing so, we will find ways to address the institutional questions of incorporation in conformity with the EEA Agreement. In view of the implementation deadline in May 2018, it is crucial that legal certainty in the EEA is established as soon as possible and that pragmatic solutions are provided if necessary. In any event, Liechtenstein will be ready to apply the European data protection standard.

A second challenge is the need to ensure that continued regulation in this field recognizes the specific situation of small and medium-sized enterprises. Data services are not just provided by the likes of Google, Apple or Amazon, but also by countless start-ups and other smaller actors. We must make sure that an increasing regulatory burden does not evolve into entry barriers, thereby impeding innovation and damaging the wider economy.

In sum, Liechtenstein is open for new technologies and new business models, especially in the digital field. We are hopeful that continued measures to develop the European Data Economy will help further expand this sector, and strengthen the economy as a whole. We look forward to achieving this goal, in particular through continued good cooperation in the EEA framework.

### **Intervention of Minister Guðlaugur ÞÓR ÞÓRÐARSON on behalf of Iceland**

Data is driving rapid changes in the world. The tremendous technological developments that we have seen in the last years; which are often referred to as the fourth industrial revolution; affect not only companies but every single individual in the European Economic Area and public administration at all levels.

Eliminating barriers and finding new approaches to unleash its potential, is therefore essential for growth within Europe.

Iceland therefore fully supports the EU's effort to develop the European data economy.

Iceland actively seeks to modernize its economy and fully participate in the Digital Single Market. Although currently scoring high on key indicators such as human capital, use of internet and digital public services, we strive to improve our performance and opportunities. Four data centres are already hosted in Iceland, as conditions are optimal in our country. Proposals to facilitate new market opportunities are clearly in line with our goals.

In order to be in position to successfully implement disruptive technologies, we are already funding a project to ensure that the internet of things (machine to machine) can communicate in Icelandic. Language technology is seen as vital to preserve our language.

As island inhabitants, Icelanders are dependent on connectivity which is why a high emphasis is placed on good digital connections. We welcome initiatives that support new technology developers and suppliers within the data economy. When it comes to opening of markets for new services - not least to benefit consumers, Iceland wants to contribute to the discussion on realising the potential of the *digital disruption* we are witnessing.

Improving the mobility of non-personal data which is currently discussed within the EU, is a prerequisite for this to take place in the European Economic Area. Iceland is of the opinion that location of data for storage or other processing should not be restricted in the EEA unless it can be justified on the grounds of public security or similar. In this context, we are looking carefully into our own regulatory environment.

The data economy has to be underpinned by vigorous protection of the fundamental human right that is the right to privacy. Technological developments in the last years, be it smart phones, big data or artificial intelligence are all having an impact on people. We therefore welcome improvements to the rights of individuals brought about with the General Data Protection Regulation. Ensuring that individuals are given the opportunity to control their personal information is essential.

Iceland, as it has for years through the EEA Agreement, will continue to apply common rules on data protection. We are working hard to prepare the successful incorporation of the new Regulation into the EEA Agreement. To that end it is essential that the EEA member states together find a solution that respects the principles of the Agreement. Active engagement is needed by all sides to find a mutually acceptable solution.

Now that the EU legal framework on personal data has been modernised to meet the challenges of the digital age, we look forward to following discussions on the free flow of data. We will actively take part through the EEA mechanism and support the dismantling of obstacles to reaping the full potential of the European Data Economy.

## **Intervention of Minister Marit BERGER RØSLAND on behalf of Norway**

Dear chairs, dear colleagues,

Data has become an essential resource for economic growth and societal progress.

Access to and re-use of data has become essential for modernising public services and addressing important challenges, such as ensuring effective transport and city planning, adapting to climate change, fighting epidemics, and preventing serious crime. Norway wants to be at the forefront of these developments.

The Commission presented its first data package in January 2017, when it announced the intention to develop a European data economy. This was followed by a consultation round on issues related to ownership, access and portability of data, as well as location requirements.

The second data package, launched in September, includes a proposed regulation on the free flow of non-personal data. This highlights how the EEA states can improve and clarify the framework conditions for companies that store, process and trade data.

The free flow of data is vital if Europe is to benefit fully from the growing data economy. Unjustified data localisation requirements are one of the main obstacles. If service providers have to offer solutions that can only legally handle some types of data and not others, and if the requirements vary from country to country, this will complicate business activities.

Only a harmonised policy across the whole of the EEA will provide predictability for both vendors and customers.

What we need is a clear and unambiguous message regarding what is legal and what is not when it comes to data localisation across the EEA.

Norway supports the initiatives from the Commission to develop the European Data Economy. More specifically, we welcome the proposed Regulation on the free flow of non-personal data. This specifies that location of data for storage or processing within the EU should not be restricted to the territory of a specific Member State unless this can be justified on grounds of public security.

For Norway it is crucial that the regulation ensures that there are no other exceptions to this general principle. This is the only way we can make sure that we don't inhibit fair competition.

I would also like to highlight that this proposal is not intended to interfere with national authorities' access to data for control purposes, such as access to accounting data. It is important that the rules governing access to such data by national authorities are harmonised.

The Norwegian Government is committed to identifying and removing unjustified legal barriers to cloud computing. Localisation requirements in national legislation or administrative regulations, such as the bookkeeping act and the archives act, will be removed.

As part of the efforts to ensure more choice and competition, and to strengthen the provision of cloud services in Europe, we need to make it easier to switch between service providers. Self-regulatory codes of conduct are an important measure in this context.

Norway also welcomes the initiatives from the Commission to further clarify issues related to ownership of data and liability that could impede the growth of the European data economy.

I would like to underline the importance of a related matter, namely the incorporation of the general data protection regulation into the EEA agreement in time for it to apply in all the EEA/EFTA states at the same time as it enters into force in the EU member states – on 25 May 2018.

This is important to avoid the legal uncertainty that could arise if the EU had a data protection regime that was different from the regime in the EEA/EFTA states from 25 May 2018. Timely incorporation is also important to ensure that our data protection authorities are able to take part in the 'one stop shop' mechanism and the European Data Protection Board from the beginning.

I am aware that EFTA experts are in dialogue with the Commission on the preparation of the Joint Committee decision, including the adaptation text. I urge all parties to show flexibility and to take into account the urgency of this matter.

Finally, I would like to draw your attention to the Nordic–Baltic digital cooperation. The Digital North Ministerial Declaration put forward by the Norwegian Nordic Presidency, and endorsed at the Ministerial Conference and Meeting in Oslo in April, aims to enhance the digital single market in the Nordic–Baltic Region.

Norway has worked closely with Estonia during their digital Presidency of the Council of the European Union, and is committed to fulfilling the Tallin eGovernment Declaration. We are also pleased that we will be able to contribute to the event on 14 December here in Brussels which will conclude Estonia's digital Presidency, and which will again highlight the importance of the free and secure movement of data in the EEA.

Thank you.

#### **8. Draft CONCLUSIONS OF THE 48th MEETING OF THE EEA COUNCIL**

##### **Intervention of Minister Aurelia FRICK on behalf of EEA EFTA side**

We have been able to reach agreement on almost the entire Draft Conclusions of the EEA Council before the meeting. There is one outstanding issue, namely paragraph 20. We can approve the Conclusions provided this paragraph is deleted.

May I invite the EU Council Presidency to respond?

##### **Intervention of Minister Sven MIKSER on behalf of the European Union**

The EU strongly regrets that it has not been possible to reach an agreement on paragraph 20 concerning the joint management of mackerel, Atlanto-Scandian herring and blue whiting.

In line with previous years, we would like to take this opportunity to reiterate the EU's firm commitment to sustainable fishing. We remain convinced that comprehensive management strategies with fair sharing arrangements are needed if we want to protect our common fish stocks in the long-term.

With this in mind, we invite the EEA EFTA side to reconsider its position and to accept the inclusion of paragraph 20 into the conclusions.

### **Intervention of Minister Aurelia FRICK on behalf of EEA EFTA side**

This substantive issue does not concern Liechtenstein directly. However, as the EEA EFTA Chair, please allow me to reiterate why the EEA EFTA States are unable to accept this particular paragraph. As my colleagues from Iceland, and from Norway, have stated repeatedly in each EEA Council over the last six years, fisheries management falls outside the scope of the EEA Agreement. It is therefore not appropriate to adopt conclusions on this issue in this forum.

May I ask the EU Council Presidency to respond?

### **Intervention of Minister Sven MIKSER on behalf of the European Union**

Dear Colleagues,

We have taken good note of your comments, but we remain convinced of the added value of the proposed paragraph 20.

However, 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 20 of the draft conclusions and agrees to its deletion, while not changing its position on the subject as such.

### **Intervention of Minister Aurelia FRICK on behalf of EEA EFTA side**

Thanks to the EU side for the flexibility you have shown with regard to the conclusions, which are hereby adopted. Let me however add a word about the paragraph we just deleted. While we understand that this issue is important to the EU, we are concerned about the manner in which we are dealing with this issue procedurally. The back and forth between our two sides on this issue at the EEA Council is becoming kind of a ritual. I can say this with great confidence, as I have personally witnessed this discussion in this room 13 times. We therefore urge the EU Council to reconsider its position ahead of the next EEA Council in May next year. Let us focus on areas of agreement and spend our time efficiently.

## 9. **OTHER BUSINESS**

### **Intervention of Minister Aurelia FRICK on behalf of EEA EFTA side**

We are then on the last agenda 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 Minister Sven MIKSER on behalf of the European Union**

No, thank you, we do not have any topics to raise under 'Other business'.

\*\*\*

### **Closing remarks of Minister Aurelia FRICK on behalf of EEA EFTA side**

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

### **Closing remarks of Minister Sven MIKSER on behalf of the European Union**

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

---



**48th meeting of the****EEA COUNCIL****(Brussels, 14 November 2017)****INDICATIVE LIST OF DELEGATIONS****I. THE GOVERNMENTS OF THE EEA – EFTA STATES WILL BE REPRESENTED  
AS FOLLOWS:****THE KINGDOM OF NORWAY**

H.E. Ms Marit Berger RØSLAND	Minister of EEA and EU Affairs, Ministry of Foreign Affairs
Mr Knut HERMANSEN	Minister Counsellor, Mission of Norway to the EU
Mr Jørn GLOSLIE	Deputy Director General, Ministry of Foreign Affairs
Mr Alex WINTHER	Deputy Director General, Ministry of Foreign Affairs
Ms Helga HELLAND	Senior Advisor, Ministry of Foreign Affairs
Ms Ane H. LUNDE	Senior Advisor, Ministry of Foreign Affairs
Ms Turi BAKKE	First Secretary, Mission of Norway to the EU
Ms Line HAUGLAND	Communications Officer, Mission of Norway to the EU
Ms Margrete Løbben HANSEN	Trainee, Mission of Norway to the EU

**ICELAND**

H.E. Mr Guðlaugur Þór ÞÓRÐARSON	Minister of Foreign Affairs, Ministry of Foreign Affairs
H.E. Ms Bergdís ELLERTSDÓTTIR	Ambassador, Mission of Iceland to the EU
Ms Unnur ORRADÓTTIR RAMETTE	Director General, Directorate for External Trade and Economic Affairs, Ministry for Foreign Affairs

Mr Andri LÚTHERSSON	Brexit coordinator, Ministry for Foreign Affairs
Mr Ragnar G. KRISTJÁNSSON	Minister, Deputy Head of Mission, Mission of Iceland to the EU
Mr Borgar Þór EINARSSON	Political Adviser, Ministry of Foreign Affairs
Ms Katrín SVERRISDÓTTIR	Coordinator for European Economic Area (EEA) Cooperation, Mission of Iceland to the EU
Mr Thordur JONSSON	Counsellor, Mission of Iceland to the EU
Ms Anna Pála SVERRISDÓTTIR	First Secretary, Mission of Iceland to the EU
Mr Oddur VALSSON	Temporary Officer, Mission of Iceland to the EU

#### **THE PRINCIPALITY OF LIECHTENSTEIN (EEA EFTA Chair)**

H.E. Ms Aurelia FRICK	Minister of Foreign Affairs, Justice and Culture
H.E. Mr Martin FRICK	Ambassador and Director of the Office for Foreign Affairs
H.E. Ms Sabina MONAUNI	Ambassador, Mission of Liechtenstein to the EU
Ms Andrea ENTNER-KOCH	Director of EEA Coordination Unit
Ms Kathrin NESCHER-STÜTZEL	Senior Advisor to the Minister of Foreign Affairs, Ministry of Foreign Affairs
Mr Stefan BARRIGA	Minister, Deputy Head of Mission, Mission of Liechtenstein to the EU
Ms Helen LOREZ	Second Secretary, Mission of Liechtenstein to the EU
Ms Isabelle THÖNY	Temporary Officer, Mission of Liechtenstein to the EU
Ms Nusch WIECZOREK	Second Secretary, Office of Foreign Affairs
Mr Daniel BATLINER	Second Secretary, Office of Foreign Affairs

## **THE ESTONIAN PRESIDENCY**

H.E. Mr Sven MIKSER	Minister of Foreign Affairs
Ms Kattri-Helina PÕLD	Counsellor, Ministry of Foreign Affairs
Ms Erika ELLAMAA-OTS	European Correspondent, Ministry of Foreign Affairs
Ms Elina VIILUP	Chair of the EU Council EFTA Working Party, Permanent Representation to the EU
Ms Kristel KEERMA	Co-Chair of the EU Council EFTA Working Party, Permanent Representation to the EU

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

Mr Zoltan MARTINUSZ	Director, Enlargement, Security, Civil Protection and Foreign Affairs Council Support
Ms Andreia VISCONTI IORDACHITA	EFTA Desk
Ms Stephania BALZAN	Political Assistant, Enlargement Unit

## **EUROPEAN EXTERNAL ACTION SERVICE**

Mr Thomas MAYR HARTING	Managing Director, Europe and Central Asia
Ms Angelina EICHHORST	Deputy Managing Director for Europe and Central Asia, European External Action Service
Mr Claude MAERTEN	Head of Division, Western Europe
Mr Thierry BECHET	Ambassador, Head of EU Delegation to Norway
Mr Martin SKYLV	Deputy Head of Division, Western Europe
Mr Vaclav NAVRATIL	Desk officer European Economic Area (EEA)
Ms Veronique JEANGILLE	Co-Desk officer, European Economic Area (EEA)
Ms Celine Henriette TANGEN	Advisor, EU Delegation to Norway
Ms Vesela GEORGIEVA	Assistant, European Economic Area (EEA)
Ms Elena NIKOLAREA	Trainee, European Economic Area

## **EUROPEAN COMMISSION**

Mr Pearse O'DONOHUE

Director, Future Networks, DG CONNECT

Ms Agnete PHILIPSON

Senior Expert, DG GROW

## **EFTA SECRETARIAT**

Mr Kristinn F. ÁRNASON

Secretary-General

Mr Dag W. HOLTER

Deputy Secretary-General

Mr Georges BAUR

Assistant Secretary-General

Mr Tómas BRYNJÓLFSSON

Director, Services, Capital, Persons and Programmes Division

Ms Brit HELLE

Director, Goods Division

Mr Kyrre ISAKSEN

Head of Legal Coordination, EEA Coordination Division

Mr Marius VAHL

Head of EEA policy coordination, EEA Coordination Division

Ms Elín Sif KJARTANSDÓTTIR

Senior Officer, Services, Capital, Persons and Programmes Division

Mr Thorfinnur OMARSSON

Senior Officer, Secretary-General's Office

Mr Johan BJERKEM

Trainee, EEA Coordination Division

Ms Hana TEMSAMANI

Trainee, Secretary-General's Office

## **EFTA SURVEILLANCE AUTHORITY**

Mr Sven Erik SVEDMAN

President

Ms Helga JÓNSDÓTTIR

College Member

Mr Frank BÜCHEL

College Member

**EUROPEAN ECONOMIC AREA  
Council of the EEA**

**Brussels, 7 November 2017  
(OR. en)**

**EEE 1607/17**

## **REPORT**

---

**Subject:** Progress report by the EEA Joint Committee to the 48th meeting of the EEA Council

---

### **Decision making**

1. The EEA Joint Committee has adopted 104 Joint Committee Decisions (JCDs) incorporating 193 legal acts since the EEA Council of 16 May 2017. In the period from 1 January to 1 November 2017, the EEA Joint Committee has adopted 207 JCDs incorporating 414 legal acts. In the same period of 2016, 211 JCDs incorporating 347 legal acts were adopted.
2. As of 31 October 2017, there were 540 outstanding legal acts where the compliance date in the EU had passed, compared to 501 acts on 5 May 2017. Since May 2017 therefore the overall number of outstanding legal acts has increased by 7.8%.
3. The number of JCDs awaiting the fulfilment of constitutional requirements, where the six-month period had expired, decreased from 12 on 1 May 2017 to 9 on 31 October 2017.
4. Important decisions incorporated since the 47<sup>th</sup> meeting of the EEA Council include:
  - Decision No 105/2017 on rules for wholesale roaming markets,
  - Decision No 104/2017 on innovative technologies for reducing CO<sub>2</sub> emissions from light commercial vehicles,

- Decision Nos 109/2017 and 111/2017 on setting emission performance standards for new passenger cars and new light commercial vehicles,
- Decision No 186/2017 on collective management of copyright and related rights,
- Decision No 187/2017 on package travel and linked travel arrangements,
- Decision No 208/2017 on the preparatory action on defence research.

### **Decision shaping**

5. The EEA EFTA States are participating in 14 EU programmes and 21 agencies, of which 16 are regulatory agencies and five executive agencies.
6. 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 of a regulation establishing the Body of European Regulators for Electronic Communications (Connectivity Package),
  - The respect for private life and the protection of personal data in electronic communications (ePrivacy),
  - The proposed legal framework of the European Solidarity Corps,
  - The approximation of the laws, regulations and administrative provisions as regards the accessibility requirements for products and services (European Accessibility Act),
  - The proposal to empower national competition authorities to be more effective enforcers,
  - The Commission consultation on the future of the European Supervisory Authorities (ESAs),
  - The provision of audiovisual media services

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

7. Briefings on capital controls in Iceland and the EU were provided in the EEA Joint Committee.

### **Status of outstanding issues**

8. The discussions on the following issues have not yet been concluded:
- the Directive on the Deposit Guarantee Scheme,
  - the Directive and Regulation on Capital Requirements (CRD IV and CRR), EMIR level 2 priority acts, and UCITS V,
  - Ship Inspection and Survey Organizations,
  - 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,
9. The Joint Committee has reiterated its determination to work towards the rapid conclusion of these issues.

### **Financial Mechanisms**

10. The Agreement on the EEA Financial Mechanism for the 2014-2021 period, with a total commitment of 1548.1 million euro, and the Agreement on the Norwegian Financial Mechanism for the 2014-2021 period, with a total commitment of 1253.7 million euro, was ratified by all contracting parties and entered into force 1 September 2017.
11. Memoranda of Understanding on the EEA Grants have been signed with Romania, Slovakia, Bulgaria, Malta, Estonia, Portugal, the Czech Republic, and Greece.

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 2017.
-



**EUROPEAN ECONOMIC AREA  
Council of the EEA**

**Brussels, 14 November 2017  
(OR. en)**

**EEE 1606/1/17  
REV 1**

## **CONCLUSIONS**

---

Subject: Conclusions of the 48th meeting of the EEA Council  
(Brussels, 14 November 2017)

---

1. The forty-eighth meeting of the EEA Council took place in Brussels on 14 November 2017 under the Presidency of Ms Aurelia Frick, Minister of Foreign Affairs of Liechtenstein. The meeting was attended by Mr Guðlaugur Þór Þórðarson, Minister for Foreign Affairs of Iceland, Ms Marit Berger Røsland, Minister of EEA and EU Affairs of Norway, and Mr Sven Mikser, Minister for Foreign Affairs of Estonia, 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. The EEA Council discussed the overall functioning of the EEA Agreement and held an orientation debate on *measures to develop the European data economy*.

## Political Dialogue

2. The EEA Council recognised that the close partnership between the EU and the EEA EFTA States was the best guarantee of long-term shared prosperity and stability. In this context, the EEA Council noted that, within the framework of the Political Dialogue, the Ministers would discuss (1) *the implications for the EEA Agreement of the UK's withdrawal from the EU*, and (2) *the Eastern Partnership*. 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.
3. With regard to the UK's withdrawal from the EU, the EEA Council underlined the importance of safeguarding the EEA Agreement, ensuring the continuation of a well-functioning, homogenous EEA and preserving the integrity of the Internal Market. The EEA Council welcomed the close dialogue and continuous exchange of information that has been established between the EU and the EEA EFTA States on the negotiations between the EU and the UK under Article 50 of the Treaty on European Union regarding the withdrawal of the UK from the EU. The EEA Council, aware of the EEA dimension of the UK's withdrawal from the EU, called for a continuation of this dialogue, to ensure continued homogeneity in the EEA.

## Cooperation in the EEA

4. The EEA Council acknowledged the key role played by the Agreement on the European Economic Area (EEA Agreement) in advancing economic integration between the EU and the EEA EFTA States. 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. 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 Estonian and incoming Bulgarian Presidencies for the continuation of this practice.

5. The EEA Council emphasised the importance of a well-functioning Internal Market as a driver in boosting economic growth and creating new jobs throughout Europe, and recognised that maintaining the four freedoms of the Internal Market is in the common interest of all Contracting Parties. The EEA Council welcomed the steps already taken to implement the proposals contained in the strategies for a Digital Single Market and for upgrading the Internal Market, with a view to exploiting in full its untapped growth and productivity potential. The EEA Council agreed that a holistic approach was required to tackle some of the main challenges facing the Internal Market, and stressed the importance of the close involvement of the EEA EFTA States in the further design and development of Internal Market policies and initiatives. Emphasising the fact that greater knowledge of the EEA Agreement throughout the EEA was in the interest of all Contracting Parties, the EEA Council urged the EU and the EEA EFTA States to ensure that information on the EEA Agreement was made readily and easily available.

### **Energy and climate change**

6. The EEA Council placed great importance on continued close cooperation between the EU and the EEA EFTA States in environmental, 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 EEA Council noted that the EEA EFTA States remain a key partner of the EU as a reliable supplier of energy and underlined that the close cooperation should continue in the areas of the Internal Energy Market, in addition to cooperation in the fields of energy security, emissions trading, the promotion of competitive, climate-resilient, safe and sustainable low carbon energy, energy efficiency, renewable energy resources, and carbon capture, utilisation and storage (CCUS), as well as other environmental issues, such as waste, chemicals, water resource management and industrial pollution.

## **Financial Mechanism**

7. The EEA Council emphasised the importance of solidarity among the countries of Europe to overcome social and economic challenges within the EEA, which is in the common interest of all Contracting Parties. In this sense, it expressed concern regarding the continued high level of youth unemployment in some EEA Member States. The EEA Council commended the positive contribution made by the EEA and Norway Financial Mechanisms 2009-2014 and by their predecessors in reducing economic and social disparities throughout the EEA. Following the entry into force on 1 September 2017 of the agreements on an EEA and a Norwegian Financial Mechanism for the 2014-2021 period, the EEA Council welcomed the progress made in the negotiations on Memoranda of Understanding between the EEA EFTA States and the Beneficiary States in the EU.

## **Capital controls**

8. 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, particularly the recent steps to lift capital controls on individuals, companies and pensions funds.

## **EU programmes**

9. 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 contributed financially. The EEA Council recognised in particular 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 would continue to place high importance on the integration and policy alignment of EEA EFTA States with the EU in the area of research and innovation.

### **Incorporation of EEA-relevant EU acts**

10. 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.
11. The EEA Council welcomed the ongoing efforts to reduce the number of 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.
12. The EEA Council called for continued work in order to significantly and durably reduce the current backlog and thereby continue to ensure legal certainty and homogeneity in the EEA. This common goal can be achieved through political will and enhanced dialogue among the relevant experts and organs. The EEA Council urged all parties to engage constructively to find solution to pending difficult issues.
13. The EEA Council noted that progress was still needed on a number of important pending issues and encouraged the Contracting Parties to reach a conclusion as soon as possible. The EEA Council highlighted in particular the importance of promptly incorporating outstanding legislation in the field of financial services – representing more than one third of the backlog – in order to ensure a level playing field throughout the EEA in this important sector. The EEA Council looked forward to reaching a conclusion as soon as possible regarding the Third Postal Directive and Genetically Modified Organisms. It also underlined the need to incorporate the General Data Protection Regulation swiftly into the EEA Agreement.
14. The EEA Council further noted that there were a number of Joint Committee Decisions where 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.

## **Agricultural trade**

15. As regards the Agreement in the form of an Exchange of Letters between the European Union and Iceland concerning additional trade preferences in agricultural products and the Agreement between Iceland and the European Union on the protection of geographical indications for agricultural products and foodstuffs, the EEA Council welcomed the finalisation by the two parties of their internal procedures and looked forward to the Agreements entering into force as soon as possible.
16. The EEA Council welcomed the initialling of the Agreement between the European Union and Norway earlier this year concerning additional trade preferences in agricultural products reached on the basis of Article 19 of the EEA Agreement and looked forward to its signing and entering into force as soon as possible.
17. The EEA Council acknowledged that the Contracting Parties had reaffirmed their commitment, in accordance with Article 19 of the EEA Agreement, to continue their efforts with a view to achieving the progressive liberalisation of agricultural trade. The EEA Council noted the suspension of the negotiations between the EU and Norway on the protection of geographical indications.
18. 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. In this regard, the EEA Council took note of the recent steps taken by the EU and Iceland to further liberalize trade in processed agricultural products, on reciprocal basis, within Protocol 3 of the EEA Agreement.

### **Fish and fisheries products**

19. The EEA Council welcomed the entry into force on 1 September 2017 of the two protocols on trade in fish and fisheries products between Iceland and the EU and between Norway and the EU, respectively.

### **Parliamentary cooperation and cooperation between economic and social partners**

20. Recognising the important role of parliamentary cooperation and cooperation between economic and social partners in the EEA, the EEA Council noted the Resolution of the EEA Joint Parliamentary Committee adopted at its meeting in Reykjavik on 23 May 2017 on the *Annual Report of the EEA Joint Committee on the Functioning of the EEA Agreement in 2016*, and the Resolutions of the EEA Consultative Committee adopted at its meeting in Prague on 7 June 2017 on the *Social Dimension of the EEA and the European Pillar of Social Rights*, and on *Digitalisation and its impact on jobs and skills*.
-



# Building a European Data Economy

**Pearse O'Donohue**  
Acting Director  
CONNECT E, Future Networks

**48<sup>th</sup> meeting of the EEA Council, Brussels, 14 November 2017**





## Communication "Building a European Data Economy" (10/10/2017)

- *Free flow of data*
- *Data access and transfer*
- *Data portability, interoperability and standards*
- *Liability (IoT and autonomous systems)*
- *Experimenting and testing*



2

# Free movement of data is essential to enable the European Data Economy

- Relying on and working alongside EU Data Protection rules
- Creating legal certainty and raising trust for cross-border data storing and processing within the EU
- Removing localisation restrictions
- A competitive EU single market for secure, reliable and affordable cloud services (avoiding vendor lock-in and multiplication of IT systems)



3

# Economic benefits of the free flow of data

Lower costs for data services and greater flexibility  
for companies could boost EU GDP by up to €8 billion/year.

Examples of predicted additional revenue by sectors (2015-2020)  
assuming that data localisation restrictions are removed<sup>4</sup>:

<div>  <div>Manufacturing</div> </div>	+ € 1.9 billion	<div>  <div>Distribution, retail &amp; hotels</div> </div>	+ € 4.5 billion	<div>  <div>Finance &amp; business services</div> </div>	+ € 2.5 billion	<div>  <div>Government, education &amp; health</div> </div>	+ € 1.5 billion
--	-----------------	--	-----------------	--	-----------------	---	-----------------

Source: Deloitte, SMART 2014/0031

4



# The Commission's proposed Regulation (13/09/2017)

## *Principles-based*

- The **free movement** of **non-personal data**
- The **availability of data** for regulatory control purposes
- Easier switching of cloud service providers or porting back to in-house servers with actions encouraging the development of self-regulatory **codes of conduct** by the industry
- **Single points of contact** in each Member State
- Synergies with the **cybersecurity** package

5



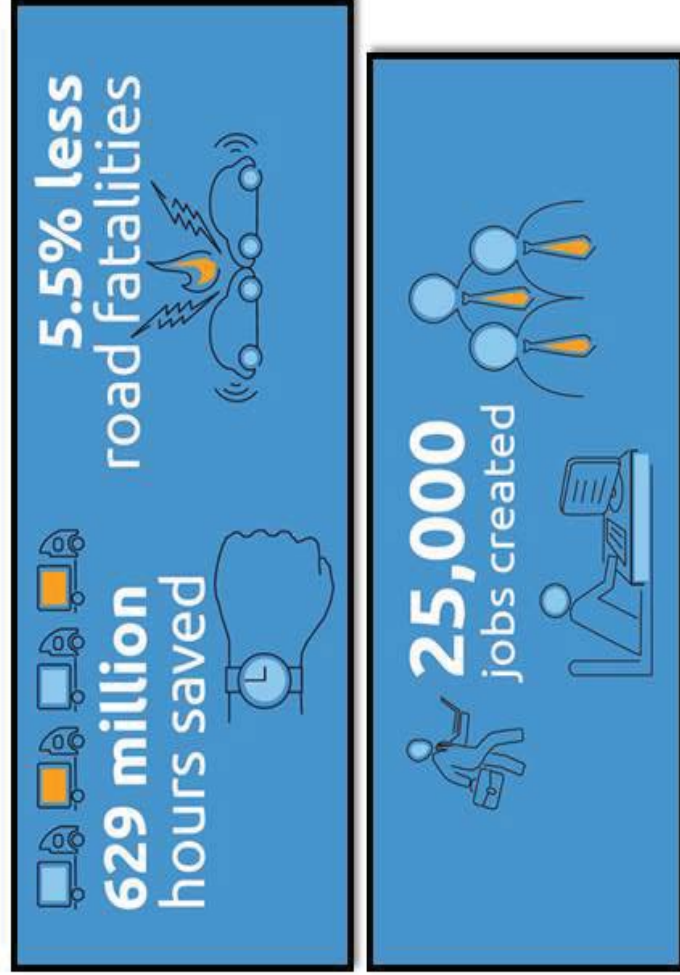
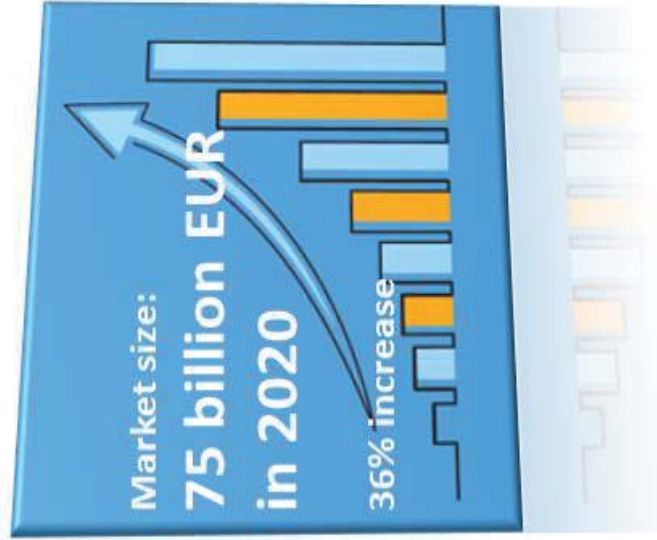
## Next actions from the Mid-Term Review of the Digital Single Market Strategy

*To enhance access to data and its transfer across sectors, borders and disciplines, the Commission will :*

- Present an initiative on access to and reusability of public and publicly funded data
- Further investigate the emerging issues of the data economy (sharing/access to data)
- Examine the area of access to private sector data for public interest and scientific purposes

6

# The importance of public open data for Europe's Data Economy





## 2018 Data package: Review of the PSI Directive

- The review of the PSI (public sector information) directive fulfils the periodic review obligation contained in its article 13, and at the same time furthers the goals of the DSM Strategy in the field of data economy
- Public online consultation until 12 December 2017:  
[https://ec.europa.eu/eusurvey/runner/PSI-Directive\\_review](https://ec.europa.eu/eusurvey/runner/PSI-Directive_review)
- The questions cover both the evaluation of the current Directive implementation and the problem, objectives and possible options for the future

8