

WORLD TRADE ORGANIZATION

WT/REG138/2
28 October 2002

(02-5916)

Committee on Regional Trade Agreements

Original: English

EUROPEAN ECONOMIC AREA

Joint Communication from the European Communities and its Member States and the Kingdom of Norway, the Republic of Iceland and the Principality of Liechtenstein

The following joint communication has been received from the delegations of the European Communities and their Member States and the Kingdom of Norway, the Republic of Iceland and the Principality of Liechtenstein. This joint communication constitutes the notification of the Agreement establishing the European Economic Area ("EEA") concluded between the European Communities and their Member States, and the Kingdom of Norway, the Republic of Iceland and the Principality of Liechtenstein.

Pursuant to Article V paragraph 7(a) of the GATS, the European Communities and their Member States, on the one part, and The Kingdom of Norway, the Republic of Iceland and the Principality of Liechtenstein, on the other part, hereby notify the "economic integration agreement" as instituted by the EEA concluded between themselves. This notification follows the formal notification already submitted and is made in accordance with the "standard format for information on economic integration agreements on services" as taken note of by the Committee on Regional Trade Agreements at its meeting on 2 May 1997.

To facilitate the examination by the Members, the relevant provisions on trade in services in this agreement have been identified in the notification. The full text of the Agreement on the European Economic Area where these provisions can be found, in their original version, are available at the WTO Secretariat. This agreement is published in the Official Journal of the European Communities (L 1, Volume 37, 3 January 1994) and in the Proposition No. 100 (1991-92) to the Norwegian Storting (Parliament) on consent to ratification (ratified on 19 November 1992), and in the Stjornartidindi (the Law and Ministerial Gazette of Iceland), C, No. 31, 20 December 1993 and in the Liechtensteinisches Landesgesetzblatt, No. 68/1995 of 28 April 1995. Further information is also available at the following web site: www.efta.int.

I. BACKGROUND INFORMATION ON THE AGREEMENT

1. Membership and Dates of Signature, Ratification and Entry into Force

The EEA establishes an association between the European Communities and their Member States, acting within the framework of the European Union, of the one part, and the Kingdom of Norway, the Republic of Iceland and the Principality of Liechtenstein, of the other part. The agreement entered into force on 1 January 1994. The EEA was signed on 2 May 1992.

2. Type of Agreement

The EEA is the basic legal instrument of the relationship between the EU, of the one part, and the Kingdom of Norway, the Republic of Iceland and the Principality of Liechtenstein, of the other part. It establishes gradually a free trade area between the EU and the Kingdom of Norway, the Republic of Iceland and the Principality of Liechtenstein, provides for a legal approximation and various other areas of cooperation. No new customs duties or quantitative restrictions can be introduced in trade between the European Union and the Kingdom of Norway, the Republic of Iceland and the Principality of Liechtenstein from the date of entry into force of the Agreement. The EEA provides for progressive alignment with Community rules as well as a number of specific provisions in such areas as capital movement, rules of competition, intellectual and industrial property rights and public procurement.

3. Scope

As regards the services sectors, the EEA covers in principle all services sectors and all modes of delivery (see II.b below).

4. Economic and Trade Data

See available data from Eurostat.

II. PROVISIONS AFFECTING TRADE IN SERVICES

1. (a) Provisions in the EEA which are Relevant to the Scope of the GATS:

- Part I – Objectives and principles: : see Articles 1 to 7 and, in particular, Articles 3 and 4, which oblige the Contracting Parties (see Article 2 (c)) to take all appropriate measures, whether general or particular, to fulfil the objectives of the Agreement and to prohibit, without prejudice to any special provisions contained therein, any discrimination on grounds of nationality;
- Part III – Free movement of persons, services and capital, in particular: Articles 28 to 30 (workers and self-employed persons), 31 to 35 (right of establishment), 36 to 39 (supply of services without establishment), 40 to 45 (capital), 47 to 52 (transport);
- Part IV – Competition and other common rules, in particular Articles 53 to 60 (rules applicable to undertakings), 61 to 64 (state aid), 65 (other common rules concerning procurement and intellectual, industrial and commercial property);
- Part V – Horizontal provisions relevant to the four freedoms;
- Part VII – Institutional provisions;
- Part IX – General and final provisions.

- (b)** These provisions of the EEA constitute an agreement liberalising trade in services between the European Communities and their Member States, on the one part, the Kingdom of Norway, the Republic of Iceland and the Principality of Liechtenstein, of the other part, in the sense of Article V, paragraph 1, given that:

- it provides for universal sectoral coverage of all service activities, subject only to the exceptions provided for under Articles 32 and 33, which are fully consistent with the exceptions provided for under Articles I 3(b), XIV and XIV bis of the GATS;
 - it provides for the liberalisation of trade through all modes of supply: "cross border" trade, "consumption abroad", "commercial presence" (with or without movement of natural persons) as well as "presence of natural persons" (see in particular Articles 28, 30, 31, 34, 36, 37, 41, 47 and 48);
 - it provides for the absence or elimination of substantially all discrimination through elimination of existing discriminatory measures and prohibition of new or more discriminatory measures (see *inter alia* Articles 28, 31, 36, 48 and 50);
 - the degree of liberalisation of trade in services between the Community and its Member States, on the one part, and the Kingdom of Norway, the Republic of Iceland and the Principality of Liechtenstein, of the other part, goes beyond the requirements and disciplines of the GATS in many respects. To achieve full national treatment, additional disciplines and means of liberalisation are foreseen such as: mutual recognition of qualifications; approximation of laws; behaviour of monopolies and exclusive service providers; restrictive business practices and payments, transfers and free movement of capital.
- (c) Consideration should also be given, pursuant to Article V paragraph 2 of GATS, to the relationship of this agreement to the wider process of economic integration between the European Communities and their Member States, on the one part, and the Kingdom of Norway, the Republic of Iceland and the Principality of Liechtenstein, on the other part, provided for under the EEA. Economic integration is not only taking place in the field of services, but also in respect of trade in goods and in economic relations in general.
- (d) The European Communities and their Member States, on the one part, and the Kingdom of Norway, the Republic of Iceland and the Principality of Liechtenstein, on the other part, have negotiated their Schedule of Specific Commitments and list of MFN exemptions during the Uruguay Round. The entry into force of the EEA did not imply any modification or amendment in these lists. The EEA aims at facilitating trade between the Parties. No provisions of the EEA aims at raising the level of restrictions of trade in services in respect of any other WTO Member.

2. Rules of Origin

Companies or firms formed in accordance with the law of an EU Member State or of the Kingdom of Norway, the Republic of Iceland and the Principality of Liechtenstein and having their registered office, central administration or principal place of business within the territory of the Contracting Parties are treated, for the purposes of the Agreement, in the same way as natural persons who are nationals of EU Member States or of the Kingdom of Norway, the Republic of Iceland and the Principality of Liechtenstein (Article 34).

3. Standards/Recognition

The EEA foresees measures necessary for mutual recognition of qualifications (Article 47) and to achieve Parties' full conformity with Community technical regulations and European standardisation and conformity assessment procedures (Article 75).

4. Safeguards

The EEA has provisions for balance-of-payments difficulties in the Community or in The Kingdom of Norway, the Republic of Iceland and the Principality of Liechtenstein (Article 43 .(4)). It also provides for the possibilities for a Party to take measures in case of serious economic, social or environmental difficulties, which are examined by the joint bodies (Article 112). Such provisions have only been applied with regard to goods and movement of persons.

5. Subsidies and State-aid

Articles 61 to 64 contain a number of provisions as regards subsidies and State aids. It contains *inter alia* a general prohibition of any public aid that distorts or threatens to distort competition by favouring certain undertakings or certain products. Any practices contrary to this rule shall be assessed on the basis of criteria arising from the application of the rules of Article 87 (ex-Article 92) of the Treaty establishing the European Community. In applying this provision, the parties recognise that during the first five years after the entry into force of the EEA, any public aid granted by the Kingdom of Norway, the Republic of Iceland and the Principality of Liechtenstein shall be assessed taking into account the fact that the Kingdom of Norway, the Republic of Iceland and the Principality of Liechtenstein shall be regarded as an area identical to those areas of the Community described in Article 87(3)(a) of the Treaty establishing the European Community. In addition, special implementing rules on State aid shall be developed to implement the above-mentioned provisions. These rules are currently in the process of being adopted. Each party shall ensure transparency in the area of State aid.

6. Government Procurement

Article 65 contains provisions on the application of EU rules on public procurement, including non-discrimination.

III. GENERAL PROVISIONS OF THE AGREEMENT

1. Exceptions and Reservations

Exceptions are provided for under Articles 33 (public policy, security and health) and 123 (security).

2. Accession

The EEA provides that any State becoming a member of the EU shall, and any State joining the EFTA may, also become a Party to the EEA.

3. Dispute Settlement Procedures

Each of the parties may refer to the EEA Joint Committee any dispute relating to the application or interpretation of the EEA. The Joint Committee may settle the dispute by means of a decision, which will be binding for each party (Article 111).

4. Relations with other Trade Agreements

'In accordance with Article 121 of the EEA Agreement, in conjunction with Decision 1/95 of the EEA Council, the Customs Treaty dated 29 March 1923 between the Principality of Liechtenstein and the Swiss Confederation, as amended on 2 November 1994, remains in force parallel with the EEA Agreement.'

5. Institutional Framework

The EEA provides for a cycle of annual meetings of the EEA Council (ministerial level) and the Joint Committee (representatives of the Parties). The EEA institutions ensure the evaluation of the functioning of the EEA and in particular decides on the modification of the annexes to take into account the legislative developments in the European Community. Exchanges between the European Parliament and the Parliaments of the Kingdom of Norway, the Republic of Iceland and the Principality of Liechtenstein are taking place within a Joint Parliamentary Committee that meets at least twice a year.

IV. OTHER

The full text of the agreement is available from:

- the WTO Secretariat;
 - the European Commission;
 - the Kingdom of Norway;
 - the Republic of Iceland
 - the Principality of Liechtenstein.
-