

Protocol adjusting the Agreement between the EFTA states on the establishment of a Surveillance Authority and a Court of Justice

THE REPUBLIC OF AUSTRIA, THE REPUBLIC OF FINLAND, THE REPUBLIC OF ICELAND, THE PRINCIPALITY OF LIECHTENSTEIN, THE KINGDOM OF NORWAY AND THE KINGDOM OF SWEDEN,

WHEREAS the Agreement on the European Economic Area, hereinafter referred to as the EEA Agreement, was signed in Oporto on 2 May 1992;

WHEREAS the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice, hereinafter referred to as the Surveillance and Court Agreement, was signed in Oporto on 2 May 1992;

WHEREAS it has become clear that one of the Signatories to the EEA Agreement, the Swiss Confederation, is not in a position to ratify the EEA Agreement or the Surveillance and Court Agreement and that therefore those Agreements will not apply to Switzerland;

WHEREAS a Protocol Adjusting the EEA Agreement is signed on the same day as this Protocol;

WHEREAS a new date for the entry into force of the Surveillance and Court Agreement has to be laid down;

WHEREAS special provisions are required for the entry into force of the Surveillance and Court Agreement as regards the Principality of Liechtenstein;

WHEREAS a number of adjustments to the Surveillance and Court Agreement are necessary as a consequence of the non-ratification by Switzerland;

HAVE DECIDED to conclude the following Protocol:

Article 1

1. The Surveillance and Court Agreement, as adjusted by this Protocol, shall enter into force on the date of entry into force of this Protocol, between the Republic of Austria, the Republic of Finland, the Republic of Iceland, the Kingdom of Norway and the

Kingdom of Sweden.

2. As regards the Principality of Liechtenstein, the Surveillance and Court Agreement, as adjusted by this Protocol, shall enter into force on the same day as the EEA Agreement enters into force for Liechtenstein and provided that the appropriate decision has been taken by the Signatories to this Protocol regarding the application to Liechtenstein of decisions and other measures taken under the Surveillance and Court Agreement.

Article 2

1. Since the Swiss Confederation following its non-ratification of the Surveillance and Court Agreement is not a Contracting Party thereto, the reference in the preamble to the Agreement to "THE SWISS CONFEDERATION" as one of the Contracting Parties shall be deleted.
2. Article 1(b) of the Surveillance and Court Agreement shall be replaced by the following:

"the term "EFTA States" means the Republic of Austria, the Republic of Finland, the Republic of Iceland, the Kingdom of Norway and the Kingdom of Sweden and, under the conditions laid down in Article 1(2) of the Protocol Adjusting the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice, the Principality of Liechtenstein".
3. The Surveillance and Court Agreement shall be adjusted further in accordance with Articles 3 to 8 of this Protocol.

Article 3

The first paragraph of Article 7 shall be replaced by the following:

"The EFTA Surveillance Authority shall consist of five members, who shall be chosen on the grounds of their general competence and whose independence is beyond doubt."

Article 4

Article 28 shall be replaced by the following:

"Article 28

The EFTA Court shall consist of five judges."

Article 5

When the Surveillance and Court Agreement enters into force for Liechtenstein, the number of members of the EFTA Surveillance Authority and the number of judges of the EFTA Court shall be increased.

Article 6

Article 29 shall be replaced by the following:

"Article 29

The EFTA Court shall sit in plenary session. Decisions of the Court shall be valid only when an uneven number of its members is sitting in the deliberations. Decisions of the Court shall be valid if three members are sitting. At the request of the Court, the Governments of the EFTA States may, by common accord, allow it to establish chambers."

Article 7

The second paragraph of Article 30 shall be replaced by the following:

"Every three years there shall be a partial replacement of the judges. Two and three judges shall be replaced alternately. The two judges to be replaced after the first three years shall be determined by lot."

Article 8

Article 53(3) shall be replaced by the following:

"3. This Agreement shall enter into force on the date and under the conditions provided for in the Protocol Adjusting the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice."

Article 9

1. This Protocol is drawn up in a single original in the English, Finnish, German, Icelandic, Norwegian and Swedish languages, each of these texts being equally authentic.
2. This Protocol shall be ratified by the Contracting Parties in accordance with their respective constitutional requirements.

It shall be deposited with the Government of Sweden which shall transmit certified copies to all the other Contracting Parties.

The instruments of ratification shall be deposited with the Government of Sweden which shall notify all the other Contracting Parties.

3. This Protocol shall enter into force on 1 July 1993, provided that the EEA Agreement enters into force on that date and provided that all the Contracting Parties referred to in Article 1(1) of this Protocol have deposited their instruments of ratification of the Surveillance and Court Agreement and of this Protocol before that date. After that date, this Protocol shall enter into force on the date the EEA Agreement enters into force or when all instruments of ratification of the Surveillance and Court Agreement and of this Protocol have been deposited by all the Contracting Parties referred to in Article 1(1) of this Protocol, whichever date is the later.

4. As regards Liechtenstein, this Protocol shall enter into force on the same date as the EEA Agreement enters into force for Liechtenstein, provided that Liechtenstein has deposited its instruments of ratification of the Surveillance and Court Agreement and of this Protocol, and under the conditions laid down in Article 1(2) of this Protocol.