

LIECHTENSTEIN



Decision of 13.12.1993
[OJ L 001/1 of 3.1.1994](#)

Agreement: art. 21
[OJ L 001/11](#)

Protocol No 11
[OJ L 001/171](#)

II

(Acts whose publication is not obligatory)

COUNCIL AND COMMISSION

DECISION OF THE COUNCIL AND THE COMMISSION

of 13 December 1993

on the conclusion of the Agreement on the European Economic Area between the European Communities, their Member States and the Republic of Austria, the Republic of Finland, the Republic of Iceland, the Principality of Liechtenstein, the Kingdom of Norway, the Kingdom of Sweden and the Swiss Confederation

(94/1/ECSC, EC)

THE COUNCIL OF THE EUROPEAN UNION,

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Coal and Steel Community,

Having regard to the Treaty establishing the European Community, and in particular Article 238 in conjunction with Article 228 (3), second subparagraph thereof,

Having regard to the assent of the European Parliament ⁽¹⁾,

Whereas the Agreement on the European Economic Area between the European Communities, their Member States and the Republic of Austria, the Republic of Finland, the Republic of Iceland, the Principality of Liechtenstein, the Kingdom of Norway, the Kingdom of Sweden and the Swiss Confederation, signed in Oporto on 2 May 1992 should be approved,

HAVE DECIDED AS FOLLOWS:

Article 1

The Agreement on the European Economic Area between the European Communities, their Member States and the Republic of Austria, the Republic of

Finland, the Republic of Iceland, the Principality of Liechtenstein, the Kingdom of Norway, the Kingdom of Sweden and the Swiss Confederation, the Protocols, the Annexes annexed thereto and the Declarations, the Agreed Minutes and exchanges of letters attached to the Final Act are hereby approved on behalf of the European Community and the European Coal and Steel Community.

The texts of the acts referred to in the first paragraph are attached to this Decision.

Article 2

The act of approval provided for in Article 129 of the Agreement shall be deposited by the President of the Council on behalf of the European Community and by the President of the Commission on behalf of the European Coal and Steel Community ⁽²⁾.

Done at Brussels, 13 December 1993.

For the Council

The President

Ph. MAYSTADT

For the Commission

The President

J. DELORS

⁽¹⁾ OJ No C 305, 23. 11. 1992, p. 66.

⁽²⁾ See page 606 of this Official Journal.

AGREEMENT
ON THE
EUROPEAN ECONOMIC AREA

Contracting Parties, in law or in fact, either directly or indirectly supervise, determine or appreciably influence imports or exports between Contracting Parties. These provisions shall likewise apply to monopolies delegated by the State to others.

CHAPTER 2

AGRICULTURAL AND FISHERY PRODUCTS

Article 17

Annex I contains specific provisions and arrangements concerning veterinary and phytosanitary matters.

Article 18

Without prejudice to the specific arrangements governing trade in agricultural products, the Contracting Parties shall ensure that the arrangements provided for in Articles 17 and 23 (a) and (b), as they apply to products other than those covered by Article 8(3), are not compromised by other technical barriers to trade. Article 13 shall apply.

Article 19

1. The Contracting Parties shall examine any difficulties that might arise in their trade in agricultural products and shall endeavour to seek appropriate solutions.

2. The Contracting Parties undertake to continue their efforts with a view to achieving progressive liberalization of agricultural trade.

3. To this end, the Contracting Parties will carry out, before the end of 1993 and subsequently at two-yearly intervals, reviews of the conditions of trade in agricultural products.

4. In the light of the results of these reviews, within the framework of their respective agricultural policies and taking into account the results of the Uruguay Round, the Contracting Parties will decide, within the framework of this Agreement, on a preferential, bilateral or multilateral, reciprocal and mutually beneficial basis, on further reductions of any type of barriers to trade in the agricultural sector, including those resulting from State monopolies of a commercial character in the agricultural field.

Article 20

Provisions and arrangements that apply to fish and other marine products are set out in Protocol 9.

CHAPTER 3

COOPERATION IN CUSTOMS-RELATED MATTERS AND TRADE FACILITATION

Article 21

1. In order to facilitate trade between them, the Contracting Parties shall simplify border controls and formalities. Arrangements for this purpose are set out in Protocol 10.

2. The Contracting Parties shall assist each other in customs matters in order to ensure that customs legislation is correctly applied. Arrangements for this purpose are set out in Protocol 11.

3. The Contracting Parties shall strengthen and broaden cooperation with the aim of simplifying the procedures for trade in goods, in particular in the context of Community programmes, projects and actions aimed at trade facilitation, in accordance with the rules set out in Part VI.

4. Notwithstanding Article 8(3), this Article shall apply to all products.

Article 22

A Contracting Party which is considering the reduction of the effective level of its duties or charges having equivalent effect applicable to third countries benefiting from most-favoured-nation treatment, or which is considering the suspension of their application, shall, as far as may be practicable, notify the EEA Joint Committee not later than 30 days before such reduction or suspension comes into effect. It shall take note of any representations by other Contracting Parties regarding any distortions which might result therefrom.

CHAPTER 4

OTHER RULES RELATING TO THE FREE MOVEMENT OF GOODS

Article 23

Specific provisions and arrangements are laid down in:

- (a) Protocol 12 and Annex II in relation to technical regulations, standards, testing and certification;
- (b) Protocol 47 in relation to the abolition of technical barriers to trade in wine;
- (c) Annex III in relation to product liability.

They shall apply to all products unless otherwise specified.

*Article 13***Administrative assistance**

In order to ensure the smooth functioning of trade between the Contracting Parties and to facilitate the detection of any irregularity or infringement, the competent authorities of the Contracting Parties shall cooperate with each other *mutatis mutandis* in accordance with the provisions of Protocol 11.

*Article 14***Consultation groups**

1. The competent authorities of the Contracting Parties concerned may set up any consultation group responsible for dealing with questions of a practical, technical or organizational nature at regional or local level.

2. Such consultation groups shall meet whenever necessary at the request of the competent authorities of a Contracting Party. The EEA Joint Committee shall be kept regularly informed of their deliberations by the Contracting Parties responsible for them.

CHAPTER IV

FINAL PROVISIONS

*Article 15***Payment facilities**

The Contracting Parties shall see to it that any sums payable in respect of the inspections and formalities applied to trade can also be paid by means of guaranteed or certified international cheques, expressed in the currency of the country in which such sums are payable.

*Article 16***Relationship to other agreements and national legislation**

This Protocol shall not prevent the application of greater facilities which two or more Contracting Parties grant to each other, nor the right of the Contracting Parties to apply their own legislation to controls and formalities at their frontiers, on condition that this does not reduce in any way the facilities deriving from this Protocol.

PROTOCOL 11

on mutual assistance in Customs Matters*Article 1***Definitions**

For the purposes of this Protocol:

- (a) 'customs legislation' shall mean provisions applicable in the territories of the Contracting Parties governing the import, export, transit of goods and their placing under any other customs procedure, including measures of prohibition, restriction and control adopted by the said Parties;
- (b) 'customs duties' shall mean all duties, taxes, fees or other charges which are levied and collected in the territories of the Contracting Parties, in application of customs legislation, but not including fees and charges which are limited in amount to the approximate costs of services rendered;
- (c) 'applicant authority' shall mean a competent administrative authority which has been appointed by a Contracting Party for this purpose and which makes a request for assistance in customs matters;
- (d) 'requested authority' shall mean a competent administrative authority which has been appointed by a Contracting Party for this purpose and which receives a request for assistance in customs matters;
- (e) 'contravention' shall mean any violation of the customs legislation as well as any attempted violation of such legislation.

*Article 2***Scope**

1. The Contracting Parties shall assist each other, in the manner and under the conditions laid down in this Protocol, in ensuring that customs legislation is correctly

applied, in particular by the prevention, detection and investigation of contraventions of this legislation.

2. Assistance in customs matters, as provided for in this Protocol, applies to any administrative authority of the Contracting Parties which is competent for the application of this Protocol. It shall not prejudice the rules governing mutual assistance in criminal matters.

Article 3

Assistance on request

1. At the request of the applicant authority, the requested authority shall furnish it with all relevant information to enable it to ensure that customs legislation is correctly applied, including information regarding operations noted or planned which contravene or would contravene such legislation.

2. At the request of the applicant authority, the requested authority shall inform it whether goods exported from the territory of one of the Contracting Parties have been properly imported into the territory of the other Party, specifying, where appropriate, the customs procedure applied to the goods.

3. At the request of the applicant authority, the requested authority shall take the necessary steps to ensure that a surveillance is kept on:

- (a) natural or legal persons of whom there are reasonable grounds for believing that they are contravening or have contravened customs legislation;
- (b) movement of goods notified as possibly giving rise to substantial contraventions of customs legislation;
- (c) means of transport for which there are reasonable grounds for believing that they have been, are or may be used in the contravening of customs legislation.

Article 4

Spontaneous assistance

The Contracting Parties shall within their competences provide each other with assistance if they consider that to be necessary for the correct application of customs legislation, particularly when they obtain information pertaining to:

- operations which have contravened, contravene or would contravene such legislation and which may be of interest to other Contracting Parties;
- new means or methods employed in realizing such operations;

- goods known to be subject to substantial contravention of customs legislation on import, export, transit or any other customs procedure.

Article 5

Delivery/Notification

At the request of the applicant authority, the requested authority shall in accordance with its legislation take all necessary measures in order to:

- deliver all documents;
- notify all decisions;

falling within the scope of this Protocol to an addressee, residing or established in its territory.

Article 6

Form and substance of requests for assistance

1. Requests pursuant to the present Protocol shall be made in writing. Documents necessary for the execution of such requests shall accompany the request. When required because of the urgency of the situation, oral requests may be accepted, but must be confirmed in writing immediately.

2. Requests pursuant to paragraph 1 shall include the following information:

- (a) the applicant authority;
- (b) the measure requested;
- (c) the object of and the reason for the request;
- (d) laws, rules and other legal instruments involved;
- (e) indications as exact and comprehensive as possible on the natural or legal persons being the target of the investigations;
- (f) a summary of the relevant facts, except in cases provided for in Article 5.

3. Requests shall be submitted in an official language of the requested authority or in a language acceptable to such authority.

4. If a request does not meet the formal requirements, its correction or completion may be demanded; the ordering of precautionary measures may, however, take place.

*Article 7***Execution of requests**

1. In order to comply with a request for assistance, the requested authority or, when the latter cannot act on its own, the administrative department to which the request has been addressed by this authority, shall proceed, within its competence and resources available, as though it were acting on its own account or at the request of other authorities of that same Contracting Party, by supplying information already possessed, by carrying out appropriate enquiries or by arranging for them to be carried out.
2. Requests for assistance will be executed in accordance with the laws, rules and other legal instruments of the requested Contracting Party.
3. Duly authorized officials of a Contracting Party may, with the agreement of the other Contracting Party involved and within the conditions laid down by the latter, obtain from the offices of the requested authority or other authority for which the requested authority is responsible, information relating to the contravention of customs legislation which the applicant authority needs for the purposes of this Protocol.
4. Officials of a Contracting Party may, with the agreement of the other Contracting Party, be present at enquiries carried out in the latter's territory.

*Article 8***Form in which information is to be communicated**

1. The requested authority shall communicate results of enquiries to the applicant authority in the form of documents, certified copies of documents, reports and the like.
2. The documents provided for in paragraph 1 may be replaced by computerized information produced in any form for the same purpose.

*Article 9***Exceptions to the obligation to provide assistance**

1. The Contracting Parties may refuse to give assistance as provided for in this Protocol, where to do so would:
 - (a) be likely to prejudice sovereignty, public policy (*l'ordre public*), security or other essential interests; or
 - (b) involve currency or tax regulations other than regulations concerning customs duties; or
 - (c) violate an industrial, commercial or professional secret.

2. Where the applicant authority asks for assistance which it would itself be unable to provide if so asked, it shall draw attention to that fact in its request. It shall then be left to the requested authority to decide how to respond to such a request.

3. If assistance is withheld or denied, the decision and the reasons therefor must be notified to the applicant authority without delay.

*Article 10***Obligation to observe confidentiality**

Any information communicated in whatever form pursuant to this Protocol shall be of a confidential nature. It shall be covered by the obligation of official secrecy and shall enjoy the protection extended to like information under the relevant laws applicable in the Contracting Party which received it and the corresponding provisions applying to the Community authorities.

*Article 11***Use of information**

1. Information obtained shall be used solely for the purposes of this Protocol and may be used within each Contracting Party for other purposes only with the prior written consent of the administrative authority which furnished the information and shall be subject to any restrictions laid down by that authority. These provisions are not applicable to information concerning offences relating to narcotic drugs and psychotropic substances. Such information may be communicated to other authorities directly involved in the combat of illicit drug traffic.
2. Paragraph 1 shall not impede the use of information in any judicial or administrative proceedings subsequently instituted for failure to comply with customs legislation.
3. The Contracting Parties may, in their records of evidence, reports and testimonies and in proceedings and charges brought before the courts, use as evidence information obtained and documents consulted in accordance with the provisions of this Protocol.

*Article 12***Experts and witnesses**

An official of a requested authority may be authorized to appear, within the limitations of the authorization granted, as expert or witness in judicial or administrative proceedings regarding the matters covered by this Protocol in the jurisdiction of another Contracting Party, and produce such objects, documents or authen-

licated copies thereof, as may be needed for the proceedings. The request for an appearance must indicate specifically on what matter and by virtue of what title or qualification the official will be questioned.

Article 13

Assistance expenses

The Contracting Parties shall waive all claims on each other for the reimbursement of expenses incurred pursuant to this Protocol, except, as appropriate, for expenses to experts and witnesses and to interpreters and translators who are not dependent upon public services.

Article 14

Implementation

1. The management of this Protocol shall be entrusted to the central customs authorities of the EFTA States, on the one hand, and the competent services of the EC Commission and, where appropriate, the customs authorities of the EC Member States, on the other. They shall decide on all practical measures and arrangements necessary for its application, taking into consideration rules in the field of data protection. They may recommend to the competent bodies amendments which they consider should be made to this Protocol.

2. The Contracting Parties shall transmit to each other lists of the competent authorities appointed to act as correspondents for the purpose of the operational implementation of this Protocol.

As regards cases covered by Community competence, due account shall be taken in this respect of specific situations which, because of the urgency or the fact that only two countries are involved in a request or

communication, may require direct contacts between the competent services of the EFTA States and of the EC Member States for the handling of requests or exchange of information. This information shall be supplemented by lists, to be revised when necessary, of officials of those services responsible for preventing, investigating and combating contravention of customs legislation.

Moreover, in order to ensure the maximum efficiency of operation of this Protocol, the Contracting Parties shall take appropriate measures to ensure that the departments responsible for combating customs fraud establish direct personal contacts, including when applicable at the level of local customs authorities, in order to facilitate exchange of information and handling of requests.

3. The Contracting Parties shall consult each other and subsequently keep each other informed of the detailed rules of implementation which are adopted in accordance with the provisions of this Article.

Article 15

Complementarity

1. This Protocol shall complement and not impede application of any agreements on mutual assistance which have been concluded or may be concluded between EC Member States and EFTA States as well as between the EFTA States. Nor shall it preclude more extensive mutual assistance granted under such agreements.

2. Without prejudice to Article 11, these agreements do not prejudice Community provisions governing the communication between the competent services of the EC Commission and the customs authorities of the Member States of any information obtained in customs matters which could be of Community interest.

PROTOCOL 12

on conformity assessment agreements with third countries

Mutual recognition agreements with third countries concerning conformity assessment for products where the use of a mark is provided for in EC legislation will be negotiated on the initiative of the Community. The Community will negotiate on the basis that the third countries concerned will conclude with the EFTA States parallel mutual recognition agreements equivalent to those to be concluded with the Community. The Contracting Parties