

Agreement on the European Economic Area

PART III

FREE MOVEMENT OF PERSONS, SERVICES AND CAPITAL

CHAPTER 1

WORKERS AND SELF-EMPLOYED PERSONS

Article 28

1. Freedom of movement for workers shall be secured among EC Member States and EFTA States.
2. Such freedom of movement shall entail the abolition of any discrimination based on nationality between workers of EC Member States and EFTA States as regards employment, remuneration and other conditions of work and employment.
3. It shall entail the right, subject to limitations justified on grounds of public policy, public security or public health:
 - (a) to accept offers of employment actually made;
 - (b) to move freely within the territory of EC Member States and EFTA States for this purpose;
 - (c) to stay in the territory of an EC Member State or an EFTA State for the purpose of employment in accordance with the provisions governing the employment of nationals of that State laid down by law, regulation or administrative action;
 - (d) to remain in the territory of an EC Member State or an EFTA State after having been employed there.
4. The provisions of this Article shall not apply to employment in the public service.
5. Annex V contains specific provisions on the free movement of workers.

Article 29

In order to provide freedom of movement for workers and self-employed persons, the Contracting Parties shall, in the field of social security, secure, as provided for in Annex VI, for workers and self-employed persons and their dependants, in particular:

- (a) aggregation, for the purpose of acquiring and retaining the right to benefit and of calculating the amount of benefit, of all periods taken into account under the laws of the several countries;
- (b) payment of benefits to persons resident in the territories of Contracting Parties.

Article 30

In order to make it easier for persons to take up and pursue activities as workers and self-employed persons, the Contracting Parties shall take the necessary measures, as contained in Annex VII, concerning the mutual recognition of diplomas, certificates

and other evidence of formal qualifications, and the coordination of the provisions laid down by law, regulation or administrative action in the Contracting Parties concerning the taking up and pursuit of activities by workers and self-employed persons.

CHAPTER 2

RIGHT OF ESTABLISHMENT

Article 31

1. Within the framework of the provisions of this Agreement, there shall be no restrictions on the freedom of establishment of nationals of an EC Member State or an EFTA State in the territory of any other of these States. This shall also apply to the setting up of agencies, branches or subsidiaries by nationals of any EC Member State or EFTA State established in the territory of any of these States.

Freedom of establishment shall include the right to take up and pursue activities as self-employed persons and to set up and manage undertakings, in particular companies or firms within the meaning of Article 34, second paragraph, under the conditions laid down for its own nationals by the law of the country where such establishment is effected, subject to the provisions of Chapter 4.

2. Annexes VIII to XI contain specific provisions on the right of establishment.

Article 32

The provisions of this Chapter shall not apply, so far as any given Contracting Party is concerned, to activities which in that Contracting Party are connected, even occasionally, with the exercise of official authority.

Article 33

The provisions of this Chapter and measures taken in pursuance thereof shall not prejudice the applicability of provisions laid down by law, regulation or administrative action providing for special treatment for foreign nationals on grounds of public policy, public security or public health.

Article 34

Companies or firms formed in accordance with the law of an EC Member State or an EFTA State and having their registered office, central administration or principal place of business within the territory of the Contracting Parties shall, for the purposes of this Chapter, be treated in the same way as natural persons who are nationals of EC Member States or EFTA States.

‘Companies or firms’ means companies or firms constituted under civil or commercial law, including cooperative societies, and other legal persons governed by public or private law, save for those which are non-profit-making.

Article 35

The provisions of Article 30 shall apply to the matters covered by this Chapter.

CHAPTER 3

SERVICES

Article 36

1. Within the framework of the provisions of this Agreement, there shall be no restrictions on freedom to provide services within the territory of the Contracting Parties in respect of nationals of EC Member States and EFTA States who are established in an EC Member State or an EFTA State other than that of the person for whom the services are intended.
2. Annexes IX to XI contain specific provisions on the freedom to provide services.

Article 37

Services shall be considered to be ‘services’ within the meaning of this Agreement where they are normally provided for remuneration, in so far as they are not governed by the provisions relating to freedom of movement for goods, capital and persons.

‘Services’ shall in particular include:

- (a) activities of an industrial character;
- (b) activities of a commercial character;
- (c) activities of craftsmen;
- (d) activities of the professions.

Without prejudice to the provisions of Chapter 2, the person providing a service may, in order to do so, temporarily pursue his activity in the State where the service is provided, under the same conditions as are imposed by that State on its own nationals.

Article 38

Freedom to provide services in the field of transport shall be governed by the provisions of Chapter 6.

Article 39

The provisions of Articles 30 and 32 to 34 shall apply to the matters covered by this Chapter.

CHAPTER 4

CAPITAL

Article 40

Within the framework of the provisions of this Agreement, there shall be no restrictions between the Contracting Parties on the movement of capital belonging to persons resident in EC Member States or EFTA States and no discrimination based on the nationality or on the place of residence of the parties or on the place where such capital is invested. Annex XII contains the provisions necessary to implement this Article.

Article 41

Current payments connected with the movement of goods, persons, services or capital between Contracting Parties within the framework of the provisions of this Agreement shall be free of all restrictions.

Article 42

1. Where domestic rules governing the capital market and the credit system are applied to the movements of capital liberalized in accordance with the provisions of this Agreement, this shall be done in a non-discriminatory manner.
2. Loans for the direct or indirect financing of an EC Member State or an EFTA State or its regional or local authorities shall not be issued or placed in other EC Member States or EFTA States unless the States concerned have reached agreement thereon.

Article 43

1. Where differences between the exchange rules of EC Member States and EFTA States could lead persons resident in one of these States to use the freer transfer facilities within the territory of the Contracting Parties which are provided for in Article 40 in order to evade the rules of one of these States concerning the movement of capital to or from third countries, the Contracting Party concerned may take appropriate measures to overcome these difficulties.
2. If movements of capital lead to disturbances in the functioning of the capital market in any EC Member State or EFTA State, the Contracting Party concerned may take protective measures in the field of capital movements.
3. If the competent authorities of a Contracting Party make an alteration in the rate of exchange which seriously distorts conditions of competition, the other Contracting Parties may take, for a strictly limited period, the necessary measures in order to counter the consequences of such alteration.
4. Where an EC Member State or an EFTA State is in difficulties, or is seriously threatened with difficulties, as regards its balance of payments either as a result of an overall disequilibrium in its balance of payments, or as a result of the type of currency at its disposal, and where such difficulties are liable in particular to jeopardize the functioning of this Agreement, the Contracting Party concerned may take protective measures.

Article 44

The Community, on the one hand, and the EFTA States, on the other, shall apply their internal procedures, as provided for in Protocol 18, to implement the provisions of Article 43.

Article 45

1. Decisions, opinions and recommendations related to the measures laid down in Article 43 shall be notified to the EEA Joint Committee.
2. All measures shall be the subject of prior consultations and exchange of information within the EEA Joint Committee.
3. In the situation referred to in Article 43(2), the Contracting Party concerned may, however, on the grounds of secrecy and urgency take the measures, where this proves necessary, without prior consultations and exchange of information.

4. In the situation referred to in Article 43(4), where a sudden crisis in the balance of payments occurs and the procedures set out in paragraph 2 cannot be followed, the Contracting Party concerned may, as a precaution, take the necessary protective measures. Such measures must cause the least possible disturbance in the functioning of this Agreement and must not be wider in scope than is strictly necessary to remedy the sudden difficulties which have arisen.

5. When measures are taken in accordance with paragraphs 3 and 4, notice thereof shall be given at the latest by the date of their entry into force, and the exchange of information and consultations as well as the notifications referred to in paragraph 1 shall take place as soon as possible thereafter.

CHAPTER 5

ECONOMIC AND MONETARY POLICY COOPERATION

Article 46

The Contracting Parties shall exchange views and information concerning the implementation of this Agreement and the impact of the integration on economic activities and on the conduct of economic and monetary policies. Furthermore, they may discuss macroeconomic situations, policies and prospects. This exchange of views and information shall take place on a non-binding basis.

CHAPTER 6

TRANSPORT

Article 47

1. Articles 48 to 52 shall apply to transport by rail, road and inland waterway.
2. Annex XIII contains specific provisions on all modes of transport.

Article 48

1. The provisions of an EC Member State or an EFTA State, relative to transport by rail, road and inland waterway and not covered by Annex XIII, shall not be made less favourable in their direct or indirect effect on carriers of other States as compared with carriers who are nationals of that State.
2. Any Contracting Party deviating from the principle laid down in paragraph 1 shall notify the EEA Joint Committee thereof. The other Contracting Parties which do not accept the deviation may take corresponding countermeasures.

Article 49

Aid shall be compatible with this Agreement if it meets the needs of coordination of transport or if it represents reimbursement for the discharge of certain obligations inherent in the concept of a public service.

Article 50

1. In the case of transport within the territory of the Contracting Parties, there shall be no discrimination which takes the form of carriers charging different rates and imposing different

conditions for the carriage of the same goods over the same transport links on grounds of the country of origin or of destination of the goods in question.

2. The competent authority according to Part VII shall, acting on its own initiative or on application by an EC Member State or an EFTA State, investigate any cases of discrimination falling within this Article and take the necessary decisions within the framework of its internal rules.

Article 51

1. The imposition, in respect of transport operations carried out within the territory of the Contracting Parties, of rates and conditions involving any element of support or protection in the interest of one or more particular undertakings or industries, shall be prohibited unless authorized by the competent authority referred to in Article 50(2).

2. The competent authority shall, acting on its own initiative or on application by an EC Member State or an EFTA State, examine the rates and conditions referred to in paragraph 1, taking account in particular of the requirements of an appropriate regional economic policy, the needs of underdeveloped areas and the problems of areas seriously affected by political circumstances, on the one hand, and of the effects of such rates and conditions on competition between the different modes of transport, on the other.

The competent authority shall take the necessary decisions within the framework of its internal rules.

3. The prohibition provided for in paragraph 1 shall not apply to tariffs fixed to meet competition.

Article 52

Charges or dues in respect of the crossing of frontiers which are charged by a carrier in addition to transport rates shall not exceed a reasonable level after taking the costs actually incurred thereby into account. The Contracting Parties shall endeavour to reduce these costs progressively.