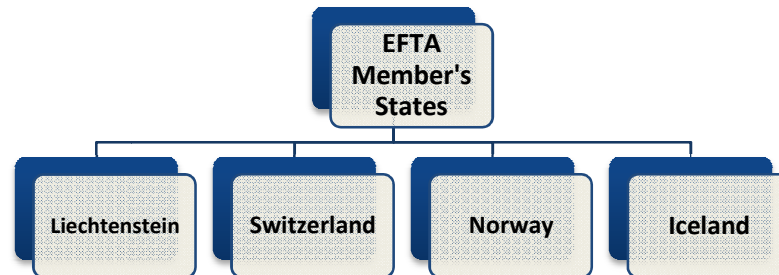


**European Free Trade Association (EFTA)**



**HISTORY**

The European Free Trade Association (EFTA) was founded by means of a Convention which was signed in Stockholm by Austria, Denmark, Norway, Portugal, Sweden, Switzerland and the United Kingdom on **4 January 1960**.

Later, **Iceland, Finland and Liechtenstein** acceded to this Convention.

Denmark, United Kingdom, Portugal, Austria, Finland and Sweden have withdrawn at different stages from the EFTA Convention as a result of their membership to the European Union.

The main objective of the Association was to liberalize trade amongst its Member States.

To that end, the EFTA Convention has contained, since its inception, basic provisions regarding the free trade in industrial goods between the EFTA Member States.

This was achieved, on **31 December 1966**, through the abolition and prohibition of import duties and quantitative restrictions and equivalent measures on imports and exports.

Free trade in **fish and other marine products** was achieved in **1989**.

The EFTA Convention also contains provisions targeted at the elimination of state aid, certain measures in relation to public undertakings, restrictive business practices, dumping and the right of establishment.

Trade in processed agricultural products is covered under the Convention, while trade in basic agricultural products has been subject to bilateral arrangements between individual EFTA Member States.

The 1970s saw a significant development in the relations **between EFTA and the European Economic Community (now called "EC")** through the conclusion of bilateral free trade agreements between the EC and each of the EFTA States that were to ensure free trade in goods.

The link between the two trading blocks was asserted further during the 1980s with an intensified cooperation aiming at abolishing technical obstacles and other non-tariff restrictions to trade in goods, as well as strengthening the cooperation in non-trade related fields (such as research and development).

This Convention provides for the liberalization of trade among the Member States. Three of the EFTA countries are part of the European Union Internal Market through the Agreement on an **European Economic Area (EEA)**, which took effect in 1994.

The fourth country, Switzerland, opted to conclude bilateral agreements with the EU.

In addition, the EFTA states have jointly concluded free trade agreements with a number of countries worldwide.

Its original membership was United Kingdom, Denmark, Norway, Sweden, Austria, Switzerland and Portugal.

Finland became an associate member in 1961 (it later became a full member in 1986), and Iceland joined in 1970.

The United Kingdom and Denmark joined the European Community in 1973 (together with Ireland), and hence ceased to be EFTA members.

Portugal also left EFTA for the European Community in 1986.

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Liechtenstein joined in 1991 (previously its interests in EFTA had been represented by Switzerland). Finally, Austria, Sweden and Finland joined the European Union in 1995 and hence ceased to be EFTA members.

**INTRODUCTION**

The Convention establishing the European Free Trade Association (hereafter the "EFTA Convention") of 4 January 1960 served for over 30 years as an institutional framework for the co-operation among the EFTA States which, still today, applies mainly to free trade in goods. Currently, there are four EFTA Member States, namely Iceland, Liechtenstein, Norway and Switzerland.

However, the Convention effectively applies mainly to the relations between Switzerland on the one hand and the other EFTA States, since the Agreement on the European Economic Area (EEA) applies to all trade relations between Iceland, Liechtenstein and Norway.

In April 2001, the EFTA Member States agreed on significant amendments to the EFTA Convention in order to modernise the Convention, and not least in order to bring it up to a similar level of co-operation as is the cases between the EFTA States and the European Community, especially after the latter concluded seven bilateral agreements with Switzerland. This communication gives an overview of the background, scope and practical results of such revision of the EFTA Convention.

**Relations with the European Union**

The EFTA States have built up stronger ties with the EU than they have had between themselves under the EFTA Convention.

However, such ties are asymmetric in that the three EFTA States that are part of the EEA (Iceland, Liechtenstein and Norway) have preferential relations between themselves and with the Member States of the EU in which Switzerland is not participating.

Switzerland, in contrast, has concluded, in addition to its Free Trade Agreement of 1972, a set of seven bilateral agreements with the EU that constitute a framework for economic relations which goes considerably further than the EFTA Convention.

Subsequently, Switzerland proposed to Iceland, Liechtenstein and Norway to accord the same treatment to them as to the EU countries, on the basis of reciprocity.

Thus, the modernization of the EFTA Convention can be expected to strengthen the cohesion in the economic relations between the four EFTA Member States.

**WTO obligations**

The extensive GATT negotiations of the Uruguay Round, comprising over 100 countries, resulted in 1994 in multilateral trade agreements and decisions in a number of new areas, including services and intellectual property, and in plurilateral agreements notably as regards public procurement.

The EFTA States felt that it was important that the level of commitments under these agreements was to be reflected in the EFTA Convention, if not further enhanced, to offer better cooperation conditions in these important fields.

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**Free trade agreements with the rest of the world**

Since the early 1990s, EFTA has built an extensive network of free trade agreements with countries in east and central Europe and in the Mediterranean region and beyond.

Starting with Turkey and Israel, free trade agreements have been concluded with all countries in east and central Europe and later also with the Palestinian Authority, and in 2000 with Mexico. Negotiations are presently under way with Chile, Egypt, Tunisia and Cyprus and forthcoming with Singapore. Some of the free trade agreements concluded with third countries go beyond the scope and coverage of the EFTA Convention.

Consequently, the need for an enhanced common platform among the EFTA States arose repeatedly. Clearly, the Convention did no longer appropriately reflect these extensive relations with the rest of the world.

**PROCEDURE**

After the EFTA Ministers had launched the updating of the EFTA Convention in June 1999, an Ad Hoc Steering Group composed of representatives of the EFTA States was established and met nine times between October 1999 and January 2001.

The material discussion in many areas was delegated to committees, working groups and expert groups.

After the submission of the final report of the Ad Hoc Steering Group in February 2001, negotiations took place successfully between 2 and 6 April 2001.

Following the signature of the Agreement amending the Convention establishing the European Free Trade Association at the EFTA Ministerial meeting in Vaduz on 21 June 2001, it is the aim to achieve a parallel entry into force of this Agreement and the seven Swiss-EU bilateral agreements.

**CONTENT**

The list of improvements agreed upon under the Agreement amending the EFTA Convention of 21 June 2001 is extensive.

It should be borne in mind, however, that Iceland, Liechtenstein and Norway, in their capacity as Member States of the European Economic Area, have already lifted among themselves the obstacles that will now be removed under the revised EFTA Convention in the entire area of the European Free Trade Association.

The new topics introduced by the Agreement amending the EFTA Convention are the following:

**Mutual recognition of conformity assessments**

The EEA Agreement in essence extends the Community's internal market rules to the three EEA/EFTA States.

This comprises the entire body of technical regulations determining the technical requirements products need to fulfil concerning safety, consumer protection, health and the environment, as well as the procedures for testing conformity with such requirements.

Protocol 12 to the EEA Agreement stipulates that the EU side negotiates agreements on mutual recognition of conformity assessment with third countries on the understanding that a parallel agreement will be concluded between the third country in question and the EEA EFTA States.

This enables the recognized conformity assessment bodies (**laboratories etc.) of the third country to test and certify products to EEA requirements in a specific product sector (and vice versa) and thus aims at avoiding duplication of testing and certification by the importing country.**

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The above arrangements that have been inserted into the EFTA Convention are comparable to the bilateral agreement that Switzerland and the EU have concluded in this field, leading effectively to a single economic space composed of the EU and all the EFTA States within which the mutual recognition of conformity assessments is governed by the same rules. In two joint declarations,

the EFTA States acknowledge that the EFTA Convention and the Swiss-EC Mutual Recognition Agreement are to be applied, and updated, in parallel.

The products covered by the EFTA Convention for the purposes of the mutual recognition of conformity assessments are the following:

- ♣ Machinery
- ♣ Personal protective equipment
- ♣ Toys
- ♣ Medical devices
- ♣ Gas appliances and boilers
- ♣ Pressure vessels
- ♣ Telecommunications installations
- ♣ Equipment used in environments where there is a high risk of explosion
- ♣ Electrical and electromagnetic compatibility appliances
- ♣ Construction plant and equipment
- ♣ Measuring instruments and prepackages
- ♣ Motor vehicles
- ♣ Agricultural and forestry tractors
- ♣ Good laboratory practice (GLP)
- ♣ Medicinal products Good Medicinal Practice Inspection and Batch Certification

Moreover, the EFTA States have declared that they will work towards an approximation of Good Clinical Practice.

**Intellectual property rights**

Under the revised EFTA Convention, the EFTA States will henceforth grant each other adequate and effective protection of intellectual property rights and combat the infringement for instance through counterfeiting and piracy, of such rights.

"Intellectual property" comprises in particular copyright, including computer programmes and databases, as well as neighbouring rights, trademarks for goods and services, geographical indications, including appellations of origin, for goods and services, industrial designs, patents, plant varieties, topographies of integrated circuits, and undisclosed information.

The EFTA States have undertaken to grant each other national treatment and most-favoured-nation treatment in this field, except as allowed in accordance with the TRIPS Agreement. The relevant standards are defined by reference to the following multilateral agreements:

- ♣ WTO Agreement of 15 April 1994 on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement);
- ♣ Paris Convention of 20 March 1883 for the Protection of Industrial Property (Stockholm Act, 1967);
- ♣ Berne Convention of 9 September 1886 for the Protection of Literary and Artistic Works (Paris Act, 1971);

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- ✿ International Convention of 26 October 1961 for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations (Rome Convention);
- ✿ The Geneva Act (1999) of the Hague Agreement Concerning the International Registration of Industrial Designs;
- ✿ The WIPO Copyright Treaty (Geneva 1996);
- ✿ The WIPO Performances and Phonogram Treaty (Geneva 1996).

As regards technology patents, the European Patent Convention of 5 October 1973 and the EEA Agreement, as implemented in national law, shall determine the level of protection in Liechtenstein and Switzerland and in Iceland and Norway respectively. Specific provisions have been inserted with regard to the additional term of protection for pharmaceuticals and plant protection products, designs, and geographical indications.

### **Institutions**

EFTA is governed by the EFTA Council and serviced by the EFTA Secretariat. In addition, in connection with the EEA Agreement of 1992, two other EFTA organizations were established, the EFTA Surveillance Authority and the EFTA Court.

### **EEA-related institutions**

The EFTA Surveillance Authority and the EFTA Court regulate the activities of the EFTA members in respect of their obligations in the European Economic Area (EEA). Since Switzerland is not an EEA member, it does not participate in these institutions.

The EFTA Surveillance Authority performs the European Commission's role as "guardian of the treaties" for the EFTA countries, while the EFTA Court performs the European Court of Justice's role for those countries.

The original plan for the EEA lacked the EFTA Court or the EFTA Surveillance Authority, and instead had the European Court of Justice and the European Commission was to exercise those roles. However, during the negotiations for the EEA agreement, the European Court of Justice informed the Council of the European Union by way of letter that they considered that giving the EU institutions powers with respect to non-EU member states would be a violation of the treaties, and therefore the current arrangement was developed instead.

### **Locations**

The EFTA Secretariat is headquartered in Geneva, Switzerland. The EFTA Surveillance Authority has its headquarters in Brussels, Belgium (the same location as the headquarters of the European Commission), while the EFTA Court has its headquarters in Luxembourg (the same location as the headquarters of the European Court of Justice).

### **Portugal Fund**

The Portugal Fund was established in 1975 when Portugal was still a member of EFTA, to provide funding for the development and reconstruction of Portugal after the end of the dictatorship. When Portugal left EFTA in 1985, the remaining EFTA members decided to nonetheless continue the Portugal Fund, so Portugal would continue to benefit from it. The Fund originally took the form of a low-interest loan from the EFTA member states to Portugal, to the value of 100 million US dollars. Repayment was originally to commence in 1988, but EFTA then decided to postpone the start of repayments until 1998. The Portugal Fund has now been dissolved by the Member States.

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**Future of EFTA**

Norwegians have rejected in referendums to join the EU on two occasions. At the time of the first referendum (1972) their neighbours the Danes joined. The second time (1994) two other Nordic neighbours, Sweden and Finland joined the EU. The two last governments of Norway have been unable and unwilling to advance the question, as they have both been coalition governments consisting of both proponents and opponents.

Iceland is not likely to join the EU in the near future due to political indifference towards the Union. Only one party supports starting entry negotiations.

Since Switzerland rejected the EEA in 1992, referenda on EU membership have been initiated, the last time in 2001. These were rejected by clear majorities.

In mid-2005, representatives of the Faroe Islands have hinted at the possibility of their territory joining EFTA. However, the chances of the Faroes' bid for membership are uncertain because, according to the EFTA Convention, only states may become members of the Association.

