

Introduction

The objective of the Agreement of the European Economic Area (*EEA Agreement*) is to establish a dynamic and homogeneous European Economic Area between the EU Member States and the EFTA Member States parties to the Agreement (*Iceland, Liechtenstein and Norway*), based on common rules and equal conditions of competition. To this end, the fundamental four freedoms of the internal market of the European Community as well as a wide range of accompanying Community rules and policies are extended to the participating EFTA States.

The task of the EFTA Surveillance Authority is to ensure, together with the European Commission, the fulfilment of the obligations laid down in the EEA Agreement. The Agreement contains both basic provisions and secondary Community legislation (EEA Act). New EEA Acts are included in the Agreement through decisions of the EEA Joint Committee.

The present document contains both the “*Single Market Scoreboard – EFTA States No 4*” and the first of the 1999 issues of the “*Interim Report on Transposition Status of Directives*”.

Part A: Single Market Scoreboard - EFTA States

1. Background

In November 1998, the EFTA Surveillance Authority issued its *Single Market Scoreboard - EFTA States No 3* at the same time as the European Commission's Single Market Scoreboard 3. The present *Single Market Scoreboard - EFTA States No 4*, is made public concurrently with the Commission Single Market Scoreboard No 4.

In line with the approach taken in the previous issues, the *Single Market Scoreboard - EFTA States No 4* deals with the effectiveness of the Single Market rules in the three EFTA States - that is, with the implementation by *Iceland, Liechtenstein and Norway* of the Single Market Directives that are part of the EEA Agreement, and with the Authority's infringement proceedings against these States with respect to failures to comply with the relevant Single Market rules applicable to them.

As regards *implementation of Single Market Directives*, the Authority's Scoreboard describes the transposition situation with respect to the Single Market Directives that were part of the EEA Agreement on 20 May 1999, and gives an account of the progress made since 15 October 1998.

The Commission's *Single Market Scoreboard No 4* deals with 1368 Single Market Directives that were part of the *acquis communautaire* on 31 May 1999. On the same date, the number of Single Market Directives that were part of the EEA Agreement, and form the basis of the statistics set forth in the present *Single Market Scoreboard -*

EFTA States No 4, was 1257. The number of Directives in the Authority's Scoreboard has consequently increased by 32 since October 1998.

It is recalled that there are mainly two reasons for the number of Single Market Directives being lower in the Authority's Scoreboard than in that of the Commission. Firstly, some Single Market Directives - for example, Directives dealing with various aspects of the citizenship of the European Union - fall outside the scope of the EEA Agreement. Secondly, while EEA relevant, some of the Single Market Directives included in the Commission's Scoreboard have not yet been made part of the EEA Agreement through an EEA Joint Committee decision to amend the Annexes and Protocols of the Agreement.

2. Implementation of Single Market Directives

(a) Situation at present

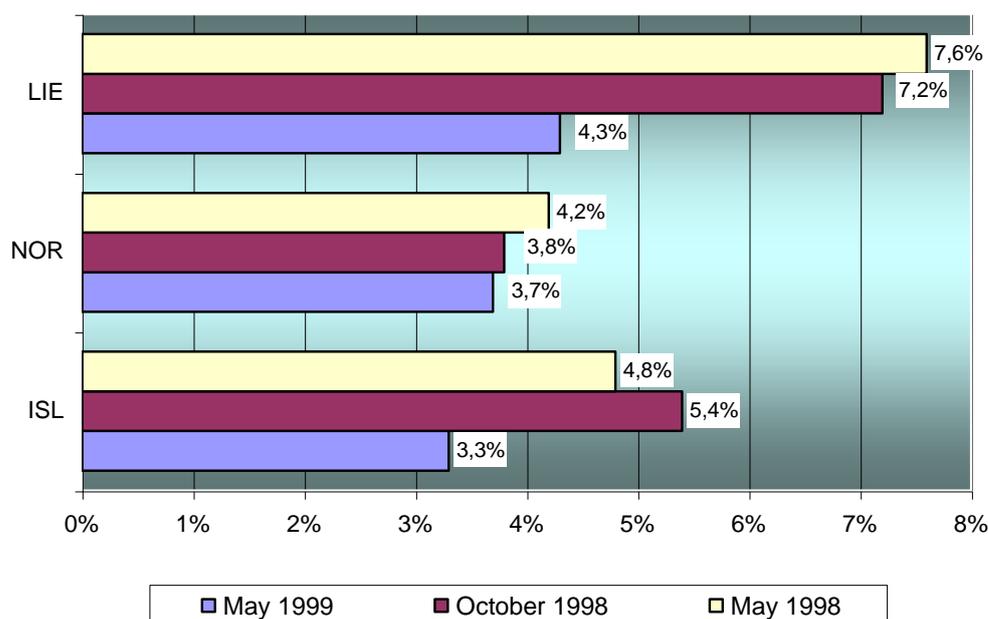
Figure 1 shows information on the Single Market Directives that were part of the EEA Agreement and had to be implemented by 20 May 1999, and on their transposition by Iceland, Liechtenstein and Norway.

Figure 1: Number of EEA Single Market Directives and their transposition by the EFTA States, situation in May 1999:

	ISL	LIE	NOR
Total number of Directives:	1257	1257	1257
- Directives with derogation and/or transition periods:	135	311	26
- Directives where no measures are necessary:	36	49	30
Applicable Directives:	1086	897	1201
- Full implementation notified:	1045	843	1154
- Partial implementation:	20	33	25
- Non-implementation:	21	21	22

Figure 2 shows for each EFTA State the percentage of the total number of Single Market Directives regarding which *no national measures* had yet been adopted, or which had only been *partially* implemented. For comparison, the situation that prevailed in May 1999 is presented against that of October 1998 and May 1998.

Figure 2: Comparison of rates of failure to implement EEA Single Market Directives between May 1999, October 1998 and May 1998:



As compared with November 1998, all the EFTA States have made progress in reducing their transposition deficits. *Liechtenstein* has improved its score by 2,9 percentage points, *Iceland* by 2,1 percentage points and *Norway* by 0,1 percentage point.

A comparison between the 18 EEA States shows that *Iceland* (3,3%) is on par with the United Kingdom on a divided 7th place, and that *Norway* (3,7%) is on the 9th place between Belgium (3,5%) and Ireland (3,9%). *Liechtenstein* (4,3%) has progressed from the last place to hold the 11th place between Ireland (3,9%) and Austria (4,5%).

As can be seen from Figure 1, *Liechtenstein* enjoyed derogations and/or transition periods with respect to 311 Single Market Directives, mainly in the *veterinary* sector. Moreover, following the expiration on 1 January 1998 of the transition period granted to Liechtenstein in Protocol 15 of the EEA Agreement, negotiations are still going on between Liechtenstein and the Commission regarding the application of the provisions of the Agreement and its Annexes on free movement of persons. Consequently, none of the Single Market Directives regarding which derogations or transition periods applies, nor those relative to the *free movement of workers* and the *right of residence* can be applied across the three EFTA States.

As regards the other Single Market Directives, *Figure 3* sets forth the sectors where the rates of non-transposition across the EFTA States were above the average (10,1%). The total number of Directives is set forth in brackets after the name of the sector. The number of Directives that each State has not yet implemented in those sectors, is also shown.

Figure 3: Percentage rates by sector of other EEA Single Market Directives not transposed across the EFTA States in May 1999:

		%	ISL	LIE	NOR
1	Cultural objects (1)	100,0%	1	1	-
2	Company law (11)	90,9%	-	10	4
3	Intellectual property (6)	66,7%	1	3	1
4	Audio-visual services (2)	50,0%	1	1	1
5	Dangerous substances (85)	43,5%	12	-	1
6	Insurance (22)	36,4%	-	8	3
7	Medicinal products (34)	35,3%	1	-	11
8	Public procurement (6)	33,3%	2	-	-
9	Banking (21)	23,8%	2	5	1
10	Telecommunications (14)	21,4%	3	3	1
11	Household appliances (10)	20,0%	2	2	1
12	Environment (29)	17,2%	3	1	3
13	Mutual recognition (57)	14,0%	4	5	1
14	Labour law (8)	12,5%	1	-	-
15	Lifting- and mechanical handling appliances (8)	12,5%	1	-	-
	TOTAL		34	39	28

When delays in implementation are broken down by sectors, progress can be observed in most areas in particular in transport, health and safety, public procurement, telecommunications and environment.

Both in terms of the number of non-transposed Directives and lack of progress, three areas remain problematic for the EFTA States. For *Iceland*, although there has been progress since November 1998, 12 of 85 Directives are still outstanding relating to dangerous substances. For *Liechtenstein* 10 of 11 Directives in the company law area are still not transposed, and for *Norway* 11 of 14 Directives relating to medicinal products sector remain non-transposed.

Figure 4 shows that, when the Single Market Directives with effective derogations and transition periods in May 1999 are excluded, 10,1 % of the Directives included in the EEA Agreement are not transposed across the three EFTA States. This figure compares to a “fragmentation factor” of 12,8 % across the 15 EU Member States. The percentage has decreased by 2,1 points since November 1998.

Figure 4: Comparison of percentage rates of EEA Single Market Directives not transposed across the EFTA States, between May 1999, October 1998 and May 1998:

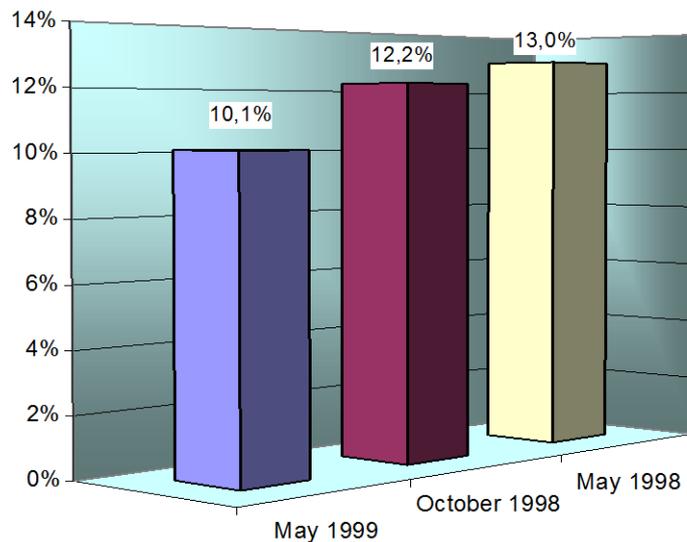


Figure 5 shows the number of Single Market Directives that had not been notified by the end of May 1999, and the average delays the EFTA States had incurred by that time.

Figure 5: Number of EEA Single Market Directives whose transposition was overdue by May 1999, and average delays in notifications:

Year of transposition deadline:	ISL	LIE	NOR
- 1994	1	-	-
- 1995	0	1	-
- 1996	-	-	-
- 1997	2	1	1
- 1998	5	11	6
< 20.05.1999	13	8	15
Average delay (in months) by 20.5.99	8,9	8,9	5,6

Since November 1998 *Iceland's* delay has decreased by 6.8 months, *Liechtenstein's* by 13,0 months, and *Norway's* by 8,1 months. When all the EEA States are put in a ranking order, *Norway* qualifies as the 3rd after Finland (3,7 months) and before Sweden (5,9 months) while *Iceland* and *Liechtenstein* holds a shared 8th position between the United Kingdom (7,2 months) and Spain (9,1 months).

(b) Implementation programmes

In February 1999 the Authority requested the EFTA States to submit new programmes on the transposition of all those Single Market Directives regarding which the EFTA State concerned had failed to notify full implementation.

Figure 6a contains information on the number of forms sent by the Authority and on the number and percentages of forms returned and programmes provided by the EFTA States. It also shows the number and percentages of measures that were indicated by each EFTA State to enter into force during 1999 or 2000, or where there was no indication when national measures would enter into force

Figure 6a: EFTA State implementation programmes regarding those EEA Single Market Directives which have not been fully transposed, situation May 1999:

Forms and programs	ISL		LIE		NOR	
	Number	%	Number	%	Number	%
Forms sent*	41		50		45	
Forms returned**	24	58,5 %	48	96,0 %	43	95,6 %
Programs provided	24	100 %	35	72,9 %	40	93,0 %
Measures forecasted to be in force						
During 1999	22	91,6 %	29	82,9 %	38	95,0 %
During 2000	2	8,4 %	1	2,9 %	2	5,0 %
Not specified	0	0 %	5	14,2 %	0	0 %

* If a returned form indicated that measures had already entered into force, that form does not appear in these statistics (either as a form sent or a form returned).

** Not every returned form actually contained a clear implementation programme.

As can be seen, *Liechtenstein* and *Norway* provided the requested information regarding most of the Directives remaining to be transposed, while *Iceland* failed to return more than 40 % of the forms sent. Most form returned contained an implementation programme indicating implementation measures with intended entry into force during 1999.

Figure 6b contains information on the number of Single Market Directives that, according to the *programme* submitted by the respective EFTA State, were to be implemented by the end of 1999, and of the number and percentage of Directives which had actually been notified as fully implemented by the end of May 1999. The last row shows the number of Directives remaining to be transposed before the end of the year.

Figure 6b: EFTA State compliance with submitted implementation programmes by the end of May 1999:

	ISL		LIE		NOR	
	Number	%	Number	%	Number	%
Forecast for measures in force in 1999	22		29		38	
Measures actually in force May 1999	7	31,8 %	24	82,8 %	9	23,0 %

It could be noted that, by the end of May, *Liechtenstein* had fulfilled 82,8% of its implementation programme for 1999.

Figure 6c: Number of Directives remaining to be transposed at the latest 31.12.99

	ISL	LIE	NOR
Number of Directives remaining to be transposed at the latest 31.12.99	45	55	50

A significant number of Directives remain to be implemented before the end of the year, 45 Directives for *Iceland*, 55 Directives for *Liechtenstein* and 50 Directives for *Norway*. This will require a considerable effort by the EFTA States if the target of eliminating the backlog shall be met. The corresponding figures on the EU side on the number of Directives remaining to be implemented by the end of the year range from 61 Directives for Denmark to 123 Directives for Portugal.

3. *Infringement proceedings*

If the Authority considers that an EFTA State has failed to fulfil an obligation under the Agreement, it may initiate formal infringement proceedings under Article 31 of the Surveillance and Court Agreement. These proceedings are identical to those applied within the European Union in accordance with Article 226 of the EC Treaty. However, infringement proceedings are initiated only where the Authority has failed to ensure by other means compliance with the Agreement. In practice the overwhelming majority of problems identified by the Authority are solved as a result

of less formal exchanges of information and discussions between the Authority's staff and representatives of the EFTA States.

If formal infringement proceedings are initiated, as a first step the Authority notifies, in a *letter of formal notice*, the Government concerned of its opinion that an infringement has taken place and invites the Government to submit its observations on the matter. If the Authority is not satisfied with the Government's answer to the letter, or if no answer is received, the Authority delivers a *reasoned opinion*, in which it defines its final position on the matter, states the reasons on which that position has been based, and requests the Government to take the necessary measures to bring the infringement to an end. Should the Government fail to comply with the reasoned opinion, the Authority may bring the matter before the *EFTA Court*, whose judgement shall be binding on the State concerned.

Figure 7 shows the number of infringement proceedings initiated by the Authority against the EFTA States in relation to *Single Market rules*.

Figure 7: Infringement statistics for alleged breaches of Single Market rules - comparison between the periods 1.9.97 - 1.9.98 and 1.3.97 - 1.3.98:

		ISL	LIE	NOR	EFTA
Letters of formal notice	1.3.98 –1.3.99	27	24	24	75
	1.9.97 –1.9.98	11	14	13	38
Reasoned opinions	1.3.98 –1.3.99	4	14	6	24
	1.9.97 –1.9.98	7	15	7	29
Cases referred to the EFTA Court	1.3.98 –1.3.99	0	0	0	0
	1.9.97 –1.9.98	0	0	1	1

As can be seen, the number of *letters of formal notice* sent during the period March 1998 and March 1999 has almost doubled compared to the number of letters dispatched between September 1997 and September 1998.

The number of *reasoned opinions* has remained almost constant during the two periods in question as well as compared to previous periods since September 1996. No application for alleged breach of a Single Market rule was sent to the *EFTA Court* during the period March 1998 - March 1999, and only one application was submitted during the period September 1997 - September 1998.

Part B: Interim Report

1. Implementation of all Directives

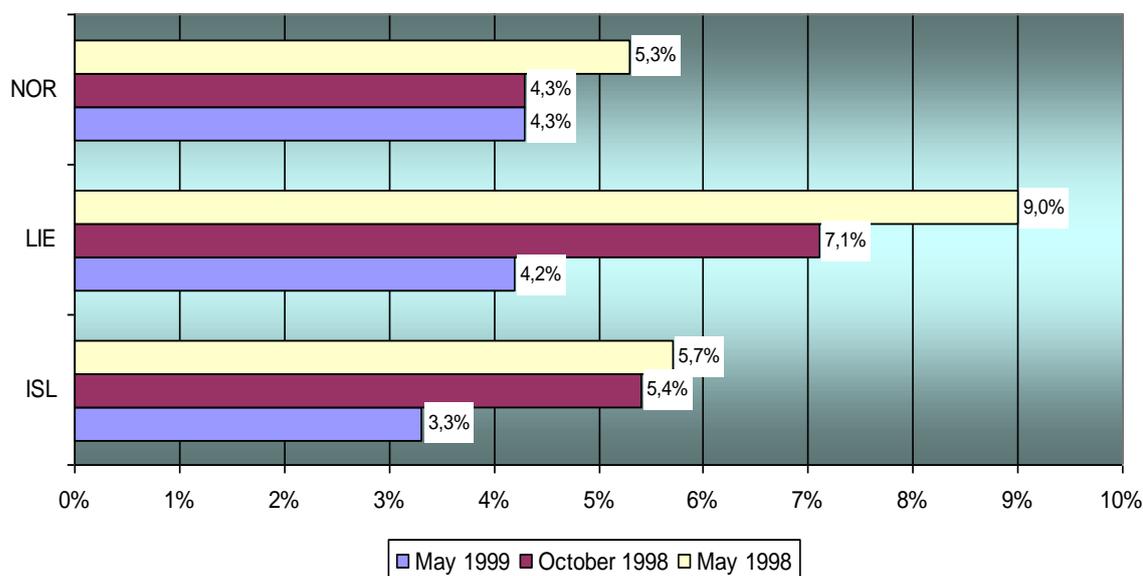
This *Interim Report* and the tables displayed herein - derived from the *Acquis Implementation Database (AIDA)* - are concerned with *all* the Directives which have been made part of the EEA Agreement and which were to be implemented by the end of May 1999. Thus, *Figure 9* contains numerical information on such Directives and on their transposition by *Iceland, Liechtenstein* and *Norway* by that date.

Figure 9: Number of all EEA Directives and their transposition by the EFTA States, situation in May 1999:

	ISL	LIE	NOR
Total number of Directives:	1340	1340	1340
- Directives with derogation and/or transition periods	152	332	26
- Directives where no measures are necessary:	42	74	38
Applicable Directives:	1146	934	1276
- Full implementation notified:	1102	878	1219
- Partial implementation:	20	34	31
- Non-implementation:	24	22	26

Figure 10 shows for each EFTA State the percentage of all Directives included in the EEA Agreement regarding which *no national measures* had yet been adopted, or which had only been *partially* implemented. As in *Figure 2* the situation which prevailed in May 1999 is presented against that of October 1998 and May 1998.

Figure 10: Comparison of rates of failure to implement all EEA Directives, between May 1999, October 1998 and May 1998:



Iceland and *Liechtenstein* have improved their scores when compared with the situation prevailing in October 1998, *Iceland* by 2,1 percentage points and *Liechtenstein* by 2,9 percentage points, while *Norway's* rate of failure to implement remains constant.

When the statistics in Figure 10 and Figure 2 are compared, it can be noted that *Norway's* performance is better when only the Single Market Directives are being taken into account (3,7% as compared to 4,3%). *Iceland's* percentage is the same (3,3%) for both groups of Directives, whereas *Liechtenstein* performs slightly better when all Directives are taken into account (4,2%) than with the Single Market Directives (4,3%).

2. *Explanatory note on the tables*

Reflecting the relevant entries made by the Authority's services in *AIDA*, two basic types of information are given in the tables set forth in the following pages.

(a) *Shadings*

The Authority's understanding of the *actual transposition situation* is illustrated by the different *shadings* in the tables. The principles according to which the shadings appear are the following:

- (a) The fact that the respective field is left *blank (white)*, means that the EFTA State concerned has *a permanent derogation or no duty to implement* the Directive in question.

No duty to implement:



- (b) A field with a *light shading* means that the EFTA State in question has notified the Directive concerned as fully implemented, and also submitted to the Authority the legal texts of all the notified national measures:

Full implementation notified:



It should be noted that this shading will *not* appear in the table, even if an EFTA State has notified full implementation as described above, if the Authority or its services,

after a preliminary examination of the legal texts received, or upon a detailed conformity assessment, are of the opinion that the Directive has *not* actually been fully implemented. (In that case one of the two shadings discussed below will appear, depending on whether implementation is considered to be only partial, or whether the measures notified by the EFTA State are not actually deemed to implement any provisions of the Directive in question.)

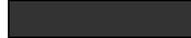
- (c) When a field has a *medium shading* it means either that the EFTA State in question has notified the Directive concerned as only partially implemented, or that the Authority or its services have come to the same conclusion following a preliminary examination of the notified legal texts or of a detailed conformity assessment:

Partial implementation:



- (d) A *dark shading* of the field means either that the Authority has received no notification relative to the Directive concerned from the EFTA State or, that following a preliminary examination of the legal texts that have been notified or of a detailed conformity assessment of the measures contained in the texts, the Authority or its services have concluded that no national measures exist in that State that would actually transpose any of the provisions of the Directive:

Non-implementation:



(b) Abbreviations

When appropriate, certain additional information is given in the form of *abbreviations* which appear in the respective fields.

Thus, the abbreviation “*NNN*” in a blank field means that, due to the circumstances prevailing in the EFTA State in question, no *implementing measures are considered necessary* for the time being. For instance, in the sector of mutual recognition of diplomas and professional qualifications, no implementing measures are necessary either in Iceland or in Norway with respect to the Directives relative to the film industry, since in those EFTA States the respective activities are liberalised, and therefore no restrictions exist in the sense of the Directives. Consequently, the value “*NNN*” has been entered in the *AIDA* for both Iceland and Norway for all the four Directives concerned, and the abbreviation appears in the respective fields of the table.

The second abbreviation that may appear in a blank field is “*TRP*”. This means that the EFTA State in question enjoys *a transitional period* for the implementation of the *whole* Directive concerned.

The third abbreviation that may appear in a blank field is “*PWH*”. This means that the EFTA State in question enjoys *a derogation* for the implementation of the *whole* Directive concerned.

When a Directorate concludes that a Directive has not been properly implemented, it may, instead of proposing to the respective College member that formal proceedings be initiated, decide to send an *informal* letter to the EFTA State concerned inviting it to adopt the measures necessary to comply with the Directive or, to provide the Authority with information on the actual status of implementation. Whenever this kind of *pre Article 31 letter* is sent, the value “*PRE*” is entered into the *AIDA*, and the abbreviation appears in the respective field with medium or dark shading.

By the same token, if the Authority has sent a letter of formal notice or a reasoned opinion for non-implementation or partial implementation to the EFTA State, the corresponding value - “*LFN*” or “*RDO*”, respectively - is entered into the *AIDA*, and thus also appears in the respective field. The abbreviation “*EFC*” means that the Authority has referred the case to the EFTA Court.

