

## 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 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 6*” and the first of the 2000 issues of the “*Interim Report on Transposition Status of Directives*”.

## Part A: Single Market Scoreboard - EFTA States

### 1. Background

Since May 1998, the EFTA Surveillance Authority issues its *Single Market Scoreboard - EFTA States* at the same time as the European Commission's Single Market Scoreboard. The present *Single Market Scoreboard - EFTA States No 6*, is made public concurrently with the Commission Single Market Scoreboard No 6.

In line with the approach taken in the previous issues, the *Single Market Scoreboard - EFTA States No 6* 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 15 April 2000.

The Commission's *Single Market Scoreboard No 6* deals with 1485 Single Market Directives that were part of the *acquis communautaire* on 15 April 2000. 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 6*, was 1308. The number of Directives in the Authority's Scoreboard has consequently increased by 51 since May 1999 and by 104 since May 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

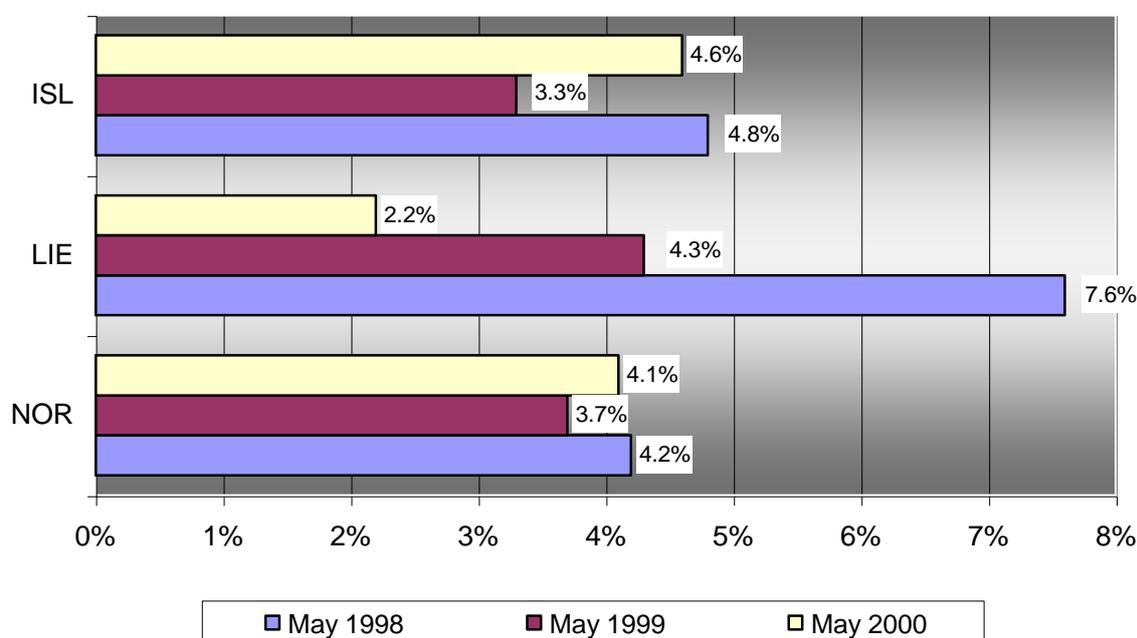
Figure 1 shows information on the Single Market Directives that were part of the EEA Agreement and had to be implemented by 15 April 2000, and on their transposition by Iceland, Liechtenstein and Norway.

**Figure 1: Number of EEA Single Market Directives and their transposition by the EFTA States, situation in April 2000:**

	ISL	LIE	NOR
<b>Total number of Directives:</b>	<b>1308</b>	<b>1308</b>	<b>1308</b>
- Directives with derogation and/or transition periods or where no measures are necessary:	<b>183</b>	<b>239</b>	<b>70</b>
<b>Applicable Directives:</b>	<b>1125</b>	<b>1069</b>	<b>1238</b>
- Full implementation notified:	<b>1065</b>	<b>1040</b>	<b>1184</b>
- Partial implementation:	<b>13</b>	<b>21</b>	<b>31</b>
- Non-implementation:	<b>47</b>	<b>8</b>	<b>23</b>

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 2000 is presented against that of May 1999 and May 1998.

**Figure 2: Comparison of rates of failure to implement EEA Single Market Directives between May 2000, May 1999 and May 1998:**



Compared with May 1999, only *Liechtenstein* shows continued improvement and it has made further progress by 1,1-percentage point. *Iceland* and *Norway* on the other

hand have increased their transposition deficits and are almost back to the May 1998 figures.

A comparison between the 18 EEA States shows that *Liechtenstein* (2,2%) holds the 5<sup>th</sup> place after Finland (1,4%), Spain (1,5%), Sweden (1,5%) and Denmark (2,0%). *Norway* (4,1%) and *Iceland* (4,6%) have slipped above the 4% threshold to the 13<sup>th</sup> and 14<sup>th</sup> place. Four EU States Greece (7,3%) Portugal (6,0%), France (5,2%) and Luxembourg (4,6%) continue to have a transposition deficit above 4%.

*Iceland* and *Liechtenstein* enjoyed derogations and/or transition periods with respect to 183 and 239 Single Market Directives respectively, mainly in the *veterinary* sector.

Furthermore, following the expiration on 1 January 1998 of the transition period granted to Liechtenstein in Protocol 15 of the EEA Agreement, negotiations between Liechtenstein and the Commission have been completed regarding the application of the provisions of the Agreement and its Annexes on free movement of persons. The new agreement enters formally into force on 1 June 2000. Consequently, none of the Single Market Directives regarding which derogations or transition periods applies, or those relative to the *free movement of workers* and the *right of residence* can be applied across the three EFTA States.

*Figure 3* sets forth the sectors where the rates of non-transposition across the EFTA States were above the average (8,8%). 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 implemented in those sectors, is also shown.

**Figure 3: Percentage rates by sector of EEA Single Market Directives not fully transposed across the EFTA States in May 2000:**

		%	ISL	LIE	NOR
1	Cultural Objects (1)	100,0%	1	-	-
2	Machinery (2)	100,0%	2	-	1
3	Company Law (11)	90,9%	-	10	-
4	Health and Safety at Work (20)	50,0%	1	2	9
5	Information Technology (2)	50,0%	1	-	1
6	Medicinal Products (36)	38,9%	5	-	13
7	Lifting and mechanical handling Appliances (3)	33,3%	1	-	-
8	Public procurement (6)	33,3%	2	-	-
9	Labour law (13)	23,1%	1	3	1
10	Telecommunications (15)	20,0%	1	3	1
11	Transport (63)	19,1%	6	2	5
12	Intellectual Property (6)	16,7%	1	-	1
13	Insurance (22)	13,6%	-	3	-
14	Feeding stuffs (107)	13,8%	14	-	3
15	Consumer protection (8)	12,5%	1	-	-
16	Pressure Vessels (9)	11,1%	1	-	-
	<b>TOTAL</b>	<b>8,8%</b>			

When delays in implementation are broken down by sectors, it can be observed that in terms of the number of non-transposed Directives, some areas are problematic for the

EFTA States. For *Iceland*, although there has been progress since November 1998, 9 of 63 Directives are still outstanding relating to transport and 14 out of 107 Directives remain in feeding stuffs. For *Liechtenstein* 10 of 11 Directives in the company law area still not fully transposed and, for *Norway* 13 of 36 Directives relating to medicinal products sector remain non-transposed. Also in health and safety and transport important gaps remain for Norway.

*Figure 4* shows that, when the Single Market Directives with effective derogations and transition periods in May 2000 are excluded, 8,8 % of the Directives included in the EEA Agreement are not transposed across the three EFTA States. This figure compares to a “fragmentation factor” of 13,0 % across the 15 EU Member States. The percentage has decreased by 1,3 points since May 1999 and by 4,2 percentage points since May 1998.

**Figure 4:** Comparison of percentage rates of EEA Single Market Directives not transposed across the EFTA States, between May 2000, May 1999 and May 1998:

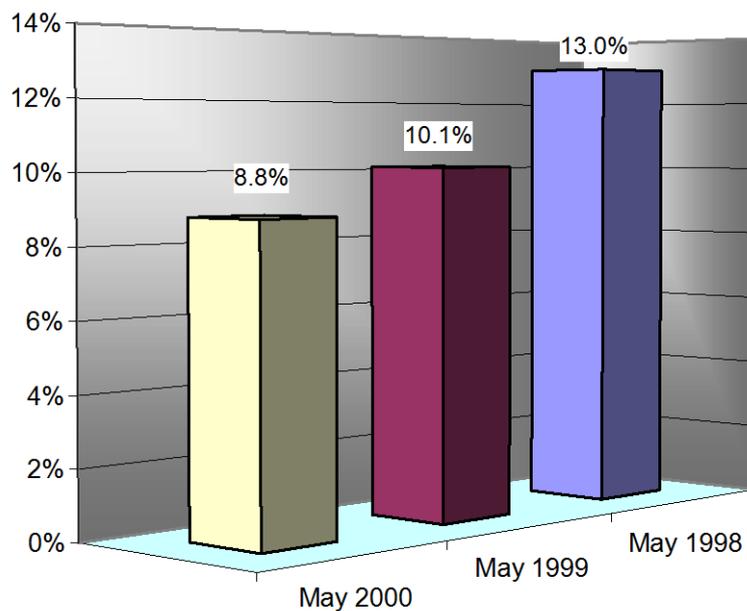


Figure 5 shows the number of Single Market Directives that had not been notified by 15 April 2000, and the average delays the EFTA States had incurred by that time.

**Figure 5: Number of EEA Single Market Directives whose transposition was overdue by 15 April, and average delays in notifications:**

<b>Year of transposition deadline:</b>	<b>ISL</b>	<b>LIE</b>	<b>NOR</b>
- 1997	1	-	-
- 1998	1	-	-
- 1999	18	3	14
< 15.04.2000	27	5	9
<b>Average delay (in months) by 15.04.2000</b>	<b>4,8</b>	<b>3,4</b>	<b>5,9</b>

Since May 1999 *Iceland's* delay has decreased by 4,1 months, *Liechtenstein's* by 5,5 months, and *Norway's* by 0,3 months. As can be expected most delays relate to the implementation of recent Directives.

Figure 6 shows the total number of *non-notified* or *partly implemented* Single Market Directives remaining to be fully transposed at the latest by the end of 2000 and 2001 respectively plus those Single Market Directives that have a future transposition date within the same periods.

It should be noted that the figures only refer to those Directives that are presently included in the EEA Agreement. It can be expected that further Directives will be added by future EEA Joint Committee decisions.

**Figure 6: Number of Directives to be transposed at the latest 31.12.2000 and 31.12.2001 respectively**

	<b>ISL</b>	<b>LIE</b>	<b>NOR</b>
<b>Number of Directives to be transposed at the latest 31.12.2000</b>	<b>73</b>	<b>31</b>	<b>68</b>
<b>Number of Directives to be transposed at the latest 31.12.2001</b>	<b>79</b>	<b>35</b>	<b>74</b>

A significant number of Directives remain to be implemented before the end of the year, 73 Directives for *Iceland*, 31 Directives for *Liechtenstein* and 68 Directives for *Norway*. The corresponding figures on the EU side on the number of Directives remaining to be implemented by the end of the year range from 69 Directives for Sweden to 159 Directives for Greece.

In addition to the present backlog, additional Directives shall be implemented during the year 2001. It will require a continued effort by the EFTA States.

### **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 compliance with the Agreement by other means. 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 7a* compares the number of infringement proceedings initiated by the Authority against the EFTA States during two years.

**Figure 7a: Infringement statistics - comparison between the periods 1.3.98 – 28.2.99 and 1.3.99 – 29.2.2000:**

		ISL	LIE	NOR	EFTA
<b>Letters of formal notice</b>	1.3.99 – 29.2.00	25	22	27	74
	1.3.98 – 28.2.99	30	25	26	81
<b>Reasoned opinions</b>	1.3.99 – 29.2.00	4	15	10	29
	1.3.98 – 28.2.99	4	14	8	26
<b>Cases referred to the EFTA Court</b>	1.3.99 – 29.2.00	0	0	1	1
	1.3.98 – 28.2.99	0	0	0	0

As can be seen, the number of *letters of formal notice* sent during the period March 1999 and March 2000 are slightly less than the number of letters dispatched between March 1998 and March 1999.

On the other hand the number of *reasoned opinions* have increased from 26 to 29.

**Figure 7b: Breakdown by sector of reasoned opinions sent 1.3.99 – 29.2.2000**

<b>REASONED OPINIONS:</b>	<b>ISL</b>	<b>LIE</b>	<b>NOR</b>	<b>EFTA</b>
Free movement of persons, Mutual recognition		1		<b>1</b>
Social security			1	<b>1</b>
Free movement of goods, Medicinal products			3	<b>3</b>
Quantitative restrictions			2	<b>2</b>
Establishment and provision of services, Banking		1		<b>1</b>
Insurance		4	1	<b>5</b>
Audio-visual	1		1	<b>2</b>
Telecommunications			1	<b>1</b>
Transport	1		1	<b>2</b>
Free movement of capital	2			<b>2</b>
Company Law		9		<b>9</b>
<b>Total</b>	<b>4</b>	<b>15</b>	<b>10</b>	<b>29</b>

*Figure 7b* breaks down by sector and by EFTA State reasoned opinions issued between March 1999 and March 2000. The sectors with the largest number of reasoned opinions are financial services and company law. *Liechtenstein* accounts for half of the total number of reasoned opinions issued during this period.

One application for alleged breaches of Single Market rules was sent to the *EFTA Court* during the period March 1999 and March 2000. The case concerns partial implementation by *Norway* of the *Second General System Directive* (92/51/EEC).

*Figure 7a* above demonstrates that the EFTA States in most cases responds to the letters of formal notice or reasoned opinions by taking the necessary measures, thereby avoiding that the infringement procedure goes further.

## Part B: Interim Report

### 1. Implementation of all Directives

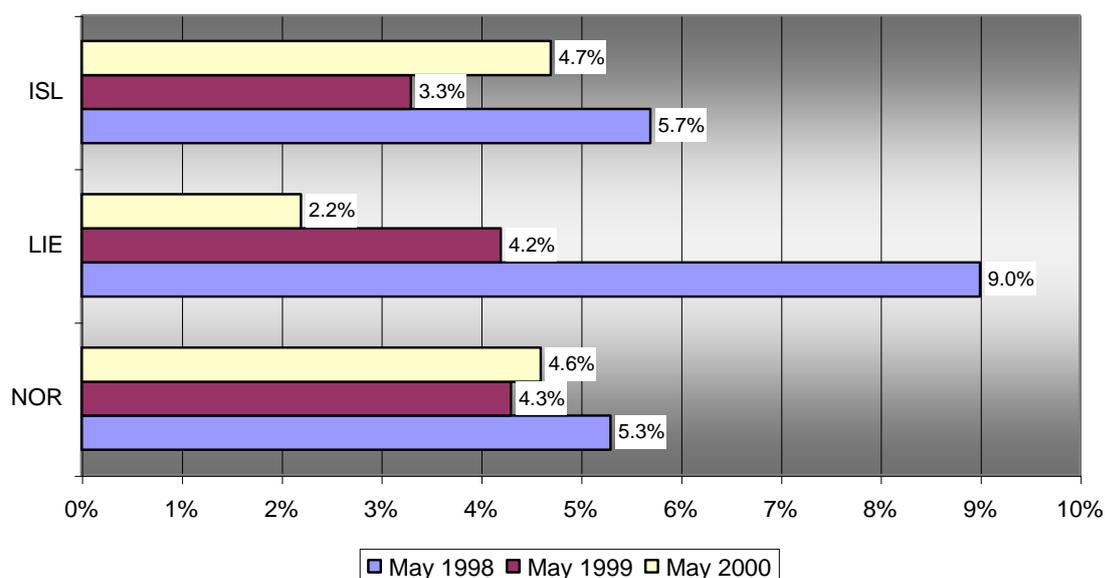
This *Interim Report* and the tables displayed herein - derived from the *Acquis Implementation Database (AIDA)* - are concerned with *all* the Directives which have been made part of the EEA Agreement and which were to be implemented by 1 November 1999. Thus, *Figure 9* contains numerical information on all Directives and on their transposition by *Iceland, Liechtenstein* and *Norway* by 15 November 1999.

**Figure 9: Number of all EEA Directives and their transposition by the EFTA States, situation April 2000:**

	ISL	LIE	NOR
<b>Total number of Directives:</b>	<b>1376</b>	<b>1376</b>	<b>1376</b>
- Directives with derogation and/or transition periods or where no measures are necessary	193	269	75
<b>Applicable Directives:</b>	<b>1183</b>	<b>1107</b>	<b>1301</b>
- Full implementation notified:	1119	1077	1238
- Partial implementation:	14	22	36
- Non-implementation:	50	8	27

*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 2000 is presented against that of May 1999 and May 1998.

**Figure 10: Comparison of rates of failure to implement all EEA Directives between May 2000, May 1999 and May 1998:**



*Liechtenstein* has improved its score when compared with the situation prevailing in May 1999 by 2,0 percentage points, while *Iceland's* score is worse by 1,4 percentage point. *Norway's* rate of failure to implement is also worse, but only by 0,3 percentage point.

When the statistics in Figure 10 and Figure 2 are compared, it can be noted that *Norway's* and *Iceland's* performances are better by 0,1 percentage point when only the Single Market Directives are being taken into account. *Liechtenstein's* percentage (2,2) is the same for both groups of Directives.

## 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:

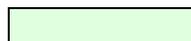
- (a) The fact that the respective field is left *blank (white)*, means that the EFTA State concerned has *a permanent derogation or no duty to implement* the Directive in question.

**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.

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