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EFTA SURVEILLANCE
AUTHORITY

**EEA Joint Parliamentary Committee
in Brussels, 19 November 2015**

Statement

by

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President of the EFTA Surveillance Authority

**Mr Chairman,
Honourable Members of the European Parliament,
Members of Parliament,
Ladies and Gentlemen,**

Thank you for inviting me to address the EEA Joint Parliamentary Committee, to give you an update of the work being done in the EFTA Surveillance Authority.

One of the main tasks of the Authority is to monitor the EFTA States to ensure the effective implementation of Internal Market rules into their domestic law. The Authority is also responsible for ensuring that EEA law is applied correctly in the EFTA States. The EFTA Surveillance Authority operates independently of the EFTA States which is essential

for the legitimacy, credibility and effective functioning of the EEA Agreement. Earlier this week I met with EFTA Parliamentarians and discussed the Authority's budget proposal for 2016. I would take the opportunity to underline that a basic requirement for our independence is the ability to set our own priorities, to have a robust budget and the means to attract and keep a competent staff to perform the tasks we have been asked to do. I would like to emphasise the important of trust in the independent institutions that monitor compliance and interpret legislation in the EFTA pillar. That should be in the interest of the EFTA States as well.

Keeping markets fair, level and open is good for our economies and societies. It establishes a good environment for business in Europe where companies can generate wealth, create jobs, and invest in the future.

Let me continue with a few words about current developments in the field of State Aid, where the recent reform of state aid rules is gradually leading to significant changes in policy.

The new General Block Exemption Regulation involves a significant increase in the possibilities for the EEA States to grant aid without prior notification. The idea is that only the larger, more distortive and complex cases will need to be notified. This is to be balanced with a greater emphasis on monitoring, evaluation and transparency, which needs to be underpinned by a stronger partnership between the States and the Authority.

Since the entry into force in July last year, Norway has made a relatively active use of the new rules, with 83 block-exempted aid measures so far, that is, 69 per cent of the total number of new measures. Iceland, on the

other hand, has only block-exempted a couple of aid schemes, while Liechtenstein, with very few aid measures in general, has not made use of it at all, so far.

As block exempted measures are accounting for a sizeable and growing share of new aid measures, the Authority must step up its surveillance activity, and will be increasingly engaged in evaluation and monitoring of such measures after the aid has been granted. The evaluation plans will include an ex-post assessment in regard to the efficiency of the state aid measures adopted, which should be of overall benefit to the process.

As mentioned, some larger and more complex aid measures will still need to undergo a scrutiny and receive approval by the Authority before aid can be granted. Two recent examples concern Norwegian aid measures to promote a more environmentally friendly production process in the metallurgical industry (namely Hydro Aluminium and TiZir Titanium and Iron). If the new technology proves successful, it may be applied in the whole industry and thus contribute to important reductions in energy consumption and CO₂ emissions.

The Authority is also being called upon to assess important cases in the power intensive industry in Iceland, cases that are interesting as they concern the application of state aid rules to measures of public undertakings. Under the EEA Agreement, such undertakings are free to participate in the market provided they act in line with what a private operator would have done.

In the field of competition, the Authority is progressing its open investigations in the transport and telecoms sectors. In the investigation concerning the ferry company Color Line and Sandefjord Municipality, the Authority is exploring if commitments regarding sailing slot allocations at Sandefjord harbour could address its concerns. The assessment is ongoing and this is not intended to prejudge the Authority's final decision, but we are hopeful that an effective resolution can be found.

Before accepting any legally-binding commitments in any investigation, the Authority will of course “market test” the proposed commitments with all stakeholders. This is important to ensuring an effective and workable outcome for the market and that no issue is overlooked.

Allow me to move on to another important field of work for the Authority: the implementation and application of internal market legislation. First, a few words about the latest Internal Market Scoreboard, which was published by the Authority last month: Norway has performed better than ever, and better than all other EEA States, by not having a single outstanding directive at the cut-off date in May.

Iceland significantly improved its result, from 2.8% to 2.1%, which is indeed a positive development; However, its deficit remains the highest one by far in the whole EEA, and we must once again urge Iceland to do its utmost to improve this further. While Liechtenstein's deficit decreased from 1.2% to 1.1%, there is still room for improvement as only five EEA States show a higher deficit. However, performance cannot only be measured by timely transposition of directives, even if that is the basis of comparison we have in the scoreboard. It should be an

issue of concern that more and more cases have to be brought to the EFTA Court, often not because the cases are disputed, but because things are not done in time. That being said it is not necessarily bad that clarification is increasingly sought from the court both from ESA and from the Member States as regards requests for advisory opinions.

We note the Contracting parties' concern with the persistently high backlog for the incorporation of new acquis into the EEA Agreement. While this is of course per se outside of the remit of ESA, it is still a concern as the sizeable disparity between the rules in force in the EU and EEA EFTA pillars increasingly affects our surveillance and enforcement work.

Mr. Chairman,

Allow me to briefly mention a couple of notable internal market cases. As you are all very well aware of, local air pollution is unacceptably high, not only here in Brussels, but in many European cities – and the largest cities in Norway are unfortunately no exception. A complaint put forward by the Norwegian Asthma and Allergy Association led the EFTA Surveillance Authority to act, and in December last year, the Authority decided to bring Norway's breach of the Ambient Air Quality Directive before the EFTA Court.

The Directive establishes legally binding limits for certain pollutants present in the air, which may pose a serious threat to public health. Although air pollution has been given a lot of attention by local and national authorities over several years, Norway has not managed to effectively tackle the problem. It is my hope and belief that this judgment from the EFTA Court puts additional pressure on the relevant

authorities at all levels to deal with this challenge in a way that will lead to concrete reductions in local air pollution. The Authority will of course continue to keep an eye on the developments and how Norway follows up on the judgment.

The air quality case also serves as a good example of an interesting trend, where we see environmental organisations, as well as others, turning to the EEA Agreement and to the Authority with complaints in order to attract attention and induce political pressure.

In June, the Authority decided to refer Liechtenstein's Trade Act to the EFTA Court in view of the prior authorisations required by Liechtenstein for the establishment of service providers and for provision of cross-border services. The Authority regards these requirements as undue burdens and obstacles to the development of a harmonious internal market.

The Services Directive requires States in the EEA to simplify procedures and formalities that service providers need to comply with. Unjustified and disproportionate burdens shall be removed, and the establishment of businesses and cross-border provision of services shall be facilitated.

Iceland's restrictions on importation of fresh meat was the object of a reasoned opinion delivered by the Authority in October last year. Independently of that case, the EFTA Court is currently dealing with a request for an advisory opinion from Reykjavík District Court regarding the same restrictions, and an oral hearing is set to take place on December 2nd. It is only natural that the Authority will wait for the advisory opinion from the Court before deciding on its next steps.

Mr. Chairman,

I started out by referring to important reforms which will allow the Authority to use more resources on the cases with the greatest impact on the Internal Market – a change which is also in the interest of the EFTA states.

Let me end with a few words on new tasks. On the institutional side, we note that in the field of financial supervision, following the agreement in principle between finance ministers on the transfer of competence to the EU bodies and to the EFTA Surveillance Authority, the discussions among the EFTA States and with the EU on the actual implementation have not yet been concluded. One consequence of this is that the incorporation of the new bulk legislation in financial services is still on hold, which we have understood is of concern to various market players in the EFTA States. From our side, the EFTA Surveillance Authority is already well prepared for taking on its new tasks once the details have been hammered out and the legislation has been incorporated into the EEA Agreement. Contacts have been established between the Authority and the European Supervisory Authorities, as well as with the relevant national authorities, and we are building up the competence to deal with these issues in the future.

Thank you for your attention.