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EFTA SURVEILLANCE  
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**Subject:** Statement by Mr Frank J. Büchel, Vice-President of the EFTA Surveillance Authority at the EFTA Ministerial Meeting in Liechtenstein on 22 June 2015

Ministers, Excellencies, Ladies and Gentlemen,

Thank you for giving me this opportunity to share some thoughts with you on the current state of affairs in the EEA from the perspective of the EFTA Surveillance Authority.

More than 20 years ago now, the current three EEA EFTA States entered into the EEA Agreement because they wanted to partake in European integration; they did not want to be left out of something bigger, a single, common market encompassing Europe. And the Agreement has proven to be surprisingly robust, to the extent that for those three States today, - given the current political climate - there appears to be no real alternative to a continued reliance on this framework for access to the common European market.

Lately, however, the EFTA States have seemed to lack the same enthusiasm when we look at their track record and commitment to live up to the obligations arising from the Agreement that they have signed up to, which

includes notably the obligation to implement new European secondary legislation into national law. Disappointing results in the Internal Market Scoreboard, as well as an unprecedented number of referrals to the EFTA Court, have forced the Authority to repeatedly urge the EFTA States to address the problem and to take the necessary steps to improve the situation.

Last year, the Icelandic and the Norwegian governments both indicated very clearly that they wanted to address this challenge by accelerating the implementation of new EEA legislation, in order to significantly reduce their transposition deficit. Almost to the day a year ago, in this same forum, my fellow College Member and President of the Authority, Ms. Oda Sletnes, welcomed these initiatives and saw reason to be optimistic for the future. Now, a year later, we should be allowed to take stock again.

The Scoreboard published earlier this year showed a continuation of the unfortunate trend, where two of the EFTA States had the worst performance by far of all the 31 states in the EEA.

The most recent results, from May this year, will not be published until later, so I am not able to share exact numbers with you at this time. It does however seem clear, from the preliminary results, that Norway's strategy has been successful and that its results will be radically improved by the next Scoreboard. This shows that with sufficient ambition and renewed commitment, it is possible to greatly improve the results within the timeframe of one year. Regarding Iceland, there also appears to be movement in the right direction, but despite the announced intention to meet the target before this summer, Iceland's results continue to be far from satisfactory. For Liechtenstein, there appears to be only a modest change in the situation, meaning that there is still room for improvement given the continued trend to ever lower implementation deficits across the whole of the EEA.

A well-functioning internal market and unhindered access to it is heavily dependent on the effective enforcement of and compliance with the common rules, and therefore on the ability and willingness of the EFTA States to show their loyalty towards the EEA Agreement and their commitment to comply with the obligations they took upon them.

When it comes to the enforcement of the common internal market rules, the Authority's role is the same as that of the European Commission; the tools at our disposal, however, are not. If EU Member States are found to be in breach of implementation deadlines or fail to comply with a judgment of the Court of Justice, they can be subject to fines. This is not possible under the EEA Agreement. For this reason, it is vital that the EFTA States honour the Agreement itself, as they have promised, and show loyalty to each other and to the other parties to the Agreement.

The EFTA Surveillance Authority believes that many problems could be avoided through a more proactive and collaborative approach on the part of the EFTA States. Taking an EFTA State to Court is never a goal in itself for the Authority, but sometimes it's the only option left to us. However, we should not have to do this because there is a lack of communication or trust, only when there is a genuine difference in opinions and interpretations. I therefore take this opportunity to once again encourage the EFTA States to engage with the Authority at an early stage – a constructive dialogue is always welcome, and it is in our shared interest to reduce the number of formal infringement procedures and the resources consumed by it on both sides.

Let me turn to another issue which currently poses some challenges to the institutional framework of the EEA: the trend in the EU to establish

supranational regulatory agencies and supervisory authorities in various fields. The agreement of principle last October between the EU and the EFTA States as regards financial supervision was an important step forward. Discussions are however still ongoing regarding the transfer of competence to EU bodies and to the EFTA Surveillance Authority. While it was understandable that constitutional and political challenges had to be solved through political discussions, the reluctance to conclude upon concrete details is unfortunate as it further delays the incorporation of an important bulk of legislation concerning the financial markets, which in turn constitutes a real and current impediment to the business of financial undertakings in our countries. It is therefore our hope that these negotiations will be concluded quickly and that pragmatic and workable solutions can be found.

Bearing in mind that the outcome might serve as precedent also in other sectors, allow me to underline the importance of safeguarding the independence and integrity of the EFTA Surveillance Authority when shaping the specifics of its new tasks. A future where the Authority is perceived only as a mere formal decision-maker in various fields and not as a supervisory body in its own right risks to have a negative effect on its credibility in the long run.

This being said, I can assure you that the Authority will be well prepared to take on its new tasks efficiently and effectively from day one. We have already started to liaise with EU counterparts which see the Authority as a trustworthy partner, and we expect good cooperation.

The challenges we have seen in this field highlight the nature of the EEA Agreement and the nature of our cooperation. They show that the Agreement is not a static set of rules, and underline the need to communicate, to trust each other and to collaborate in the continual redesign of EEA cooperation

for it to continue to be the successful and reliable framework it has proven to be for the EEA EFTA States' participation in European integration going forward.

I thank you for your attention!