

# CONVENTION ESTABLISHING THE EUROPEAN FREE TRADE ASSOCIATION

The Republic of Iceland, the Principality of Liechtenstein, the Kingdom of Norway and the Swiss Confederation (hereinafter referred to as the Member States);

Having regard to the conclusion on 4 January 1960, between the Republic of Austria, the Kingdom of Denmark, the Kingdom of Norway, the Portuguese Republic, the Kingdom of Sweden, the Swiss Confederation and the United Kingdom of Great Britain and Northern Ireland, of the Convention establishing the European Free Trade Association (hereinafter referred to as the Convention);

Having regard to the association with the Republic of Finland and its subsequent accession on 1 January 1986, and to the accessions by the Republic of Iceland on 1 March 1970 and by the Principality of Liechtenstein on 1 September 1991;

Having regard to the successive withdrawals from the Convention by the Kingdom of Denmark and the United Kingdom on 1 January 1973; the Republic of Portugal on 1 January 1986; the Republic of Austria, the Republic of Finland and the Kingdom of Sweden on 1 January 1995;

Having regard to the free trade agreements between the Member States on the one hand and third parties on the other;

Reaffirming the high priority they attach to the privileged relationship between the Member States and to the facilitation of continuity in their respective good relations with the European Union, which are based on proximity, long-standing common values and European identity;

Resolved to deepen the co-operation instituted within the European Free Trade Association, further facilitating the free movement of goods, aiming at the progressive attainment of free movement of persons and the progressive liberalisation of trade in services and investment, further opening up the public procurement markets in the EFTA States, and providing for the appropriate protection of intellectual property rights, under fair conditions of competition;

Building on their respective rights and obligations under the Agreement establishing the World Trade Organization and other multilateral and bilateral instruments of co-operation;

Recognising the need for mutually supportive trade and environmental policies in order to achieve the objective of sustainable development;

Affirming their commitment to the observance of recognised core labour standards, noting their endeavours to promote such standards in the appropriate multilateral fora and expressing their belief that economic growth and development fostered by increased trade and further trade liberalisation contribute to the promotion of these standards;

Have agreed as follows:

## Chapter I. Objectives

### Article 1. The Association

An international organisation to be known as the European Free Trade Association, hereinafter referred to as "the Association", is hereby established.

### Article 2. Objectives

The objectives of the Association shall be

(a) to promote a continued and balanced strengthening of trade and economic relations between the Member States with

fair conditions of competition, and the respect of equivalent rules, within the area of the Association;

(b) the free trade in goods;

(c) to progressively liberalise the free movement of persons;

(d) the progressive liberalisation of trade in services and of investment;

(e) to provide fair conditions of competition affecting trade between the Member States;

(f) to open the public procurement markets of the Member States;

(g) to provide appropriate protection of intellectual property rights, in accordance with the highest international standards.

## **Chapter II. Free Movement of Goods**

### **Article 3. Customs Duties on Imports and Exports, and Charges Having Equivalent Effect**

Customs duties on imports and exports, and any charges having equivalent effect, shall be prohibited between the Member States. This shall also apply to customs duties of a fiscal nature.

### **Article 4. Internal Taxation**

1. No Member State shall impose, directly or indirectly, on the products of other Member States any internal taxation of any kind in excess of that imposed directly or indirectly on similar domestic products.

2. Furthermore, no Member State shall impose on the products of other Member States any internal taxation of such a nature as to afford indirect protection to other products.

3. Where products are exported to the territory of any Member State, any repayment of internal taxation shall not exceed the internal taxation imposed on them whether directly or indirectly.

### **Article 5. Rules of Origin**

The rules of origin and methods of administrative cooperation in customs administration are set out in Annex A.

### **Article 6. Mutual Assistance In Customs Matters**

1. Member States shall assist each other in customs matters in general in accordance with the provisions of Annex B in order to ensure that their customs legislation is correctly applied. 2

2. Annex B shall apply to all products whether or not covered by the provisions of this Convention.

### **Article 7. Quantitative Restrictions on Imports and Exports, and Measures Having Equivalent Effect**

Quantitative restrictions on imports and exports, and all measures having equivalent effect, shall be prohibited between the Member States.

### **Article 8. Agricultural Goods**

1. In view of the special considerations affecting agriculture, the basic agricultural goods and the goods processed from agricultural raw materials listed in Annex C shall be subject to the following rules:

(a) In relation to the goods listed in Part I of Annex C, the provisions of this Convention shall apply, with due regard to the arrangements provided for in Article 9.

(b) In relation to goods listed in Part II or in Part III of Annex C, and with due regard to the arrangements provided for in Article 9, Articles 2, 3, 4 and 7 shall not apply.

(c) In relation to the goods listed in Part III of Annex C, the Member States declare their readiness to foster, in so far as their

agricultural policies allow, the harmonious development of trade. In pursuance of this objective, Iceland shall grant tariff concessions to agricultural products originating in Norway and Switzerland 3 as specified in Table 1 of Annex D, Norway shall grant tariff concessions to agricultural products originating in Iceland and Switzerland 4 as specified in Table 2 of Annex D, and Switzerland 5 shall grant tariff concessions to agricultural products originating in Iceland and Norway as specified in Table 3 of Annex D. Article 15 of Annex A shall not apply to goods listed in Part III of Annex C.

2. Chapter IV on State aid, Chapter VI on competition and Chapter XII on public procurement shall not apply to agricultural goods.

3. Also applies to the Principality of Liechtenstein as long as its Customs Union Treaty of 29 March 1923 with Switzerland remains in force.

4. Also applies to the Principality of Liechtenstein as long as its Customs Union Treaty of 29 March 1923 with Switzerland remains in force.

5. Also applies to the Principality of Liechtenstein as long as its Customs Union Treaty of 29 March 1923 with Switzerland remains in force.

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5 Also applies to the Principality of Liechtenstein as long as its Customs Union Treaty of 29 March 1923 with Switzerland remains in force.

## **Article 9. Parts I and II - Goods of Annex C (processed Agricultural Goods)**

1. In order to take account of differences in the cost of the agricultural raw materials incorporated in the goods specified in Part I of Annex C referred to in subparagraph (a) of Article 8, the Convention does not preclude, in respect of such goods:

(a) the levying, upon import, of a fixed duty;

(b) the application of internal price compensation measures;

(c) the application of measures adopted upon export.

2. The fixed duties, levied upon import of goods listed in Part I of Annex C, shall be based on, but not exceed, the differences between the domestic price and the world market price of the agricultural raw materials incorporated into the goods concerned.

3. With due regard to the provisions in paragraph 2, no Member State shall accord to imports of goods listed in Part I or in Part II of Annex C from the territory of another Member State a treatment less favourable than it accords to imports from the territory of the European Community or any other free trade partner.

4. The Member States shall notify each other of all changes in the treatment for products listed in Part I or in Part II of Annex C accorded to the European Community or any other free trade partner.

## **Article 10. Fish and other Marine Products**

The provisions of this Convention shall apply in relation to fish and other marine products.

## **Article 11. Seeds and Organic Agriculture**

1. Specific rules on seeds are set out in Annex E.

2. Specific rules on organic agriculture are set out in Annex F.

## **Article 12. Sanitary and Phytosanitary Measures**

The rights and obligations of the Member States in respect of sanitary and phytosanitary measures shall be governed by Annex G.

## **Article 13. Exceptions**

The provisions of Article 7 shall not preclude prohibitions or restrictions on imports, exports or goods in transit justified on grounds of public morality; public policy or public security; the protection of health and life of humans, animals or plants and of the environment; the protection of national treasures possessing artistic, historic or archaeological value; or the protection of industrial and commercial property. Such prohibitions or restrictions shall not, however, constitute a means of arbitrary discrimination or a disguised restriction on trade between the Member States.

## **Chapter III. Technical Barriers to Trade**

### **Article 14. Notification of Draft Technical Regulations**

1. Member States shall notify to the Council at the earliest practicable stage all draft technical regulations or amendments thereto.
2. The provisions on the notification procedure are set out in Annex H.

### **Article 15. Mutual Recognition of Conformity Assessment**

Without prejudice to Article 7, Switzerland, on the one hand, and Iceland, Liechtenstein and Norway, on the other, grant mutual acceptance of reports, certificates, authorisations, conformity marks and manufacturers declarations of conformity in accordance with Annex I.

## **Chapter IV. State Aid**

### **Article 16. State Aid**

1. The rights and obligations of the Member States relating to State aid shall be based on Article XVI of the GATT 1994 and the WTO Agreement on Subsidies and Countervailing Measures, which are incorporated and made part of the Convention, except as otherwise provided for in Annex Q.
2. Member States shall not apply countervailing measures as provided for under Part V of the WTO Agreement on Subsidies and Countervailing Measures in relation to any other Member State in accordance with Article 36.
3. The Member States shall review the scope of application of this Chapter with a view to extending the disciplines with respect to State aid to the field of services, taking into account international developments in the sector. The reviews shall take place at yearly intervals.

## **Chapter V. Public Undertakings and Monopolies**

1. Member States shall ensure that public undertakings refrain from applying
  - (a) measures the effect of which is to afford protection to domestic production which would be inconsistent with this Convention if achieved by means of a duty or charge with equivalent effect, quantitative restriction or government aid, or
  - (b) trade discrimination on grounds of nationality in so far as it frustrates the benefits expected from the removal or absence of duties and quantitative restrictions on trade between Member States.
2. For the purposes of this Article, public undertakings means central, regional, or local government authorities, public enterprises and any other organisation by means of which a Member State, by law or in practice, controls or appreciably influences imports from, or exports to, the territory of a Member State.
3. The provisions of paragraph 1 of Article 18 shall also apply to the activities of public undertakings, and undertakings for which the Member States grant special or exclusive rights, in so far as the application of these provisions does not obstruct the performance, in law or in fact, of the particular public tasks assigned to them.
4. Paragraph 3 shall apply to Annex Q. The Member States shall review the scope of application of this Chapter with a view to extending the disciplines to other services, taking into account international developments in the sector. The reviews shall take place at yearly intervals.
5. Member States shall ensure that new practices of the kind described in paragraph 1 of this Article are not introduced.
6. Where Member States do not have the necessary legal powers to control the activities of regional or local government

authorities or enterprises under their control in these matters, they shall nevertheless endeavour to ensure that those authorities or enterprises comply with the provisions of this Article.

## **Chapter VI. Rules of Competition**

### **Article 18. Competition**

1. Member States recognise that the following practices are incompatible with this Convention in so far as they frustrate the benefits arising from this Convention:

(a) agreements between enterprises, decisions by associations of enterprises and concerted practices between enterprises which have as their object or result the prevention, restriction or distortion of competition;

(b) abuse by one or more undertakings of a dominant position in the territories of the Member States as a whole or in a substantial part thereof.

2. Should a Member State consider that a given practice is incompatible with this Article, it may ask for consultations in accordance with the procedures set out in Article 47 and take appropriate measures under the conditions set out in paragraph 2 of Article 40 to deal with the difficulties resulting from the practice in question.

## **Chapter VII. Protection of Intellectual Property**

### **Article 19.**

1. Member States shall grant and ensure adequate and effective protection of intellectual property rights, and provide for measures for the enforcement of such rights against infringement thereof, counterfeiting and piracy, in accordance with the provisions of this Article, Annex J and the international agreements referred to therein.

2. Member States shall accord to each others nationals treatment no less favourable than that they accord to their own nationals. Exemptions from this obligation must be in accordance with the substantive provisions of Article 3 of the TRIPS Agreement.

3. Member States shall grant to each others nationals treatment no less favourable than that accorded to nationals of any other State. Exemptions from this obligation must be in accordance with the substantive provisions of the TRIPS Agreement, in particular Articles 4 and 5 thereof.

4. Member States agree, upon request of any Member State, to review the provisions on the protection of intellectual property rights contained in the present Article and in Annex J, with a view to further improve levels of protection and to avoid or remedy trade distortions caused by actual levels of protection of intellectual property rights.

## **Chapter VIII. Free Movement of Persons**

### **Article 20. Movement of Persons**

1. Freedom of movement of persons shall be secured among Member States in accordance with the provisions set out in Annex K and in the Protocol to Annex K on the free movement of persons between Liechtenstein and Switzerland.

2. The objective of this Article for the benefit of the nationals of the Member States shall be:

(a) to accord a right of entry, residence, access to work as employed persons, establishment on a self-employed basis and the right to stay in the territory of the Member States;

(b) to facilitate the provision of services in the territory of the Member States, and in particular to liberalise the provision of services of brief duration;

(c) to accord a right of entry into, and residence in, the territory of the Member States to persons without an economic activity in the host State;

(d) to accord the same living, employment and working conditions as those accorded to nationals.

### **Article 21. Coordination of Social Security Systems**

In order to provide freedom of movement of persons, the Member States shall make provision, in accordance with Appendix 2 of Annex K and with the Protocol to Annex K on the free movement of persons between Liechtenstein and Switzerland, for the coordination of social security systems with the aim in particular of:

- (a) securing equality of treatment;
- (b) determining the legislation applicable;
- (c) aggregating, for the purpose of acquiring and retaining the right to benefit and of calculating the amount of benefit, of all periods taken into consideration by the national legislation of the States concerned;
- (d) paying benefits to persons resident in the territories of the Member States;
- (e) fostering mutual administrative assistance and cooperation between authorities and institutions.

## **Article 22. Mutual Recognition of Professional Qualifications**

In order to make it easier for nationals of the Member States to take up and pursue activities as workers and self-employed persons, the Member States shall take the necessary measures, as contained in Appendix 3 to Annex K and in the Protocol to Annex K on the free movement of persons between Liechtenstein and Switzerland, concerning the mutual recognition of diplomas, certificates and other evidence of formal qualifications, and the coordination of the provisions laid down by law, regulation or administrative action in the Member States concerning the taking up and pursuit of activities by workers and self-employed persons.

## **Chapter IX. Investment**

### **Section I. Establishment**

#### **Article 23. Principles and Scope**

1. Within the framework of, and subject to, the provisions of this Convention, there shall be no restrictions on the right of establishment of companies or firms, formed in accordance with the law of a Member State and having their registered office, central

Administration or principal place of business in the territory of the Member States. This shall also apply to the setting up of agencies, branches or subsidiaries by companies or firms of any Member State established in the territory of any other Member State.

The right of establishment shall include the right to set up, acquire and manage undertakings, in particular companies or firms within the meaning of paragraph 2, under the conditions laid down for its own undertakings by the law of the Member State where such establishment is effected, subject to the provisions set out hereafter.

2. For the purposes of this Chapter:

(a) subsidiary of a company shall mean a company which is effectively controlled by the first company;

(b) companies or firms shall mean companies or firms constituted under civil or commercial law, including cooperative societies, and other legal persons governed by public or private law, save for those which are nonprofit-making; in order to be considered as a company or firm of a Member State, the company or firm shall have a real and continuous link with the economy in that Member State.

3. Annexes L to O contain specific provisions and exemptions regarding the right of establishment. The Member States shall endeavour to eliminate gradually remaining discriminations, which they may maintain in accordance with Annexes L to O. The Member States agree to review the present provision, including its Annexes, within two years after the entry into force of the Agreement amending the Convention establishing the European Free Trade Association of 21 June 2001 with a view to reducing, and ultimately eliminating, the remaining restrictions.

4. From the date of entry into force of the Agreement amending the Convention establishing the European Free Trade Association of 21 June 2001, neither Member State shall adopt new, or more, discriminatory measures as regards the establishment and operation of companies or firms of another Member State, in comparison with the treatment accorded to its own companies or firms.

5. In sectors covered by an exemption as contained in Annexes L to O, each Member State shall accord to companies or

firms of another Member State treatment no less favourable than that accorded to companies or firms of third parties other than the European Community. As regards any new agreements concluded between any Member State and the European Community, the Member States further undertake to extend to each other, on the basis of reciprocity, the benefits of such agreements, subject to a decision by the Council.

6. The right of establishment in the field of road, rail and air transport shall be governed by the provisions of Article 35 and Annexes P and Q, subject to the specific provisions and exemptions set out in Annexes L and M.

7. The right of establishment of natural persons shall be governed by the provisions of Article 20, Annexes K and the Protocol to Annex K on movement of persons between Liechtenstein and Switzerland.

## **Article 24. National Treatment**

1. Within the scope of application of this Chapter, and without prejudice to any special provisions contained herein:

(a) Member States shall grant treatment no less favourable than that accorded to their own companies or firms;

(b) each Member State may regulate the establishment and operation of companies or firms on its territory, in so far as these regulations do not discriminate against companies or firms of the other Member States in comparison to its own companies or firms.

2. The provisions of this Article do not preclude the application by a Member State of particular rules concerning the establishment and operation in its territory of branches and agencies of companies of another Member State not incorporated in the territory of the first Member State, which are justified by legal or technical differences between such branches and agencies as compared to branches and agencies of companies incorporated in its territory. The difference in treatment shall not go beyond what is strictly necessary as a result of such legal or technical differences.

## **Article 25. Financial Market Regulation**

1. In respect of financial services, this Chapter does not prejudice the right of the Member States to adopt measures necessary for prudential grounds in order to ensure the protection of investors, depositors, policy holders, or persons to whom a fiduciary duty is owed, or to ensure the integrity and stability of the financial system. These measures shall not discriminate against companies or firms of the other Member States in comparison to its own companies or firms.

2. Nothing in this Chapter shall be construed to require a Member State to disclose information relating to the affairs and accounts of individual customers or any confidential or proprietary information in the possession of public entities.

## **Article 25. Recognition**

1. A Member State may enter into an agreement or arrangement with a particular State providing for the recognition of standards, criteria for authorization, licensing or certification of service suppliers, in which case it shall offer adequate opportunity for

Any other Member State to negotiate its accession to such an agreement or arrangement or to negotiate comparable ones with it.

2. Where a Member State accords recognition as provided for in paragraph 1 autonomously, it shall afford adequate opportunity for any other Member State to demonstrate that experience, licences or certifications obtained or requirements met in that other Member States territory should be recognised.

3. A Member State shall not accord recognition in a manner which would constitute a means of discrimination between countries in the application of its standards or criteria for the authorisation, licensing or certification of service suppliers, or a disguised restriction to establishment in the services sector.

## **Article 27. Exceptions**

1. The provisions of this Chapter shall not apply, so far as any given Member State is concerned, to activities which in that Member State are connected, even occasionally, with the exercise of official authority.

2. The provisions of this Chapter and measures taken in pursuance thereof shall not prejudice the applicability of provisions laid down by law, regulation or administrative action providing for special treatment for foreign companies or firms on grounds of public policy, public security, public health or the environment.

3. Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between States where like conditions prevail, or a disguised restriction on trade in services, nothing in this Convention shall be construed to prevent the adoption or enforcement by any Member State of measures:

(a) inconsistent with Article 24, provided that the difference in treatment is aimed at ensuring the equitable or effective (4) imposition or collection of direct taxes in respect of services or service suppliers of other Member States;

(b) inconsistent with paragraph 5 of Article 23, provided that the difference in treatment is the result of an agreement on the avoidance of double taxation or provisions on the avoidance of double taxation in any other international agreement or arrangement by which the Member State is bound.

4 Measures that are aimed at ensuring the equitable or effective imposition or collection of direct taxes include measures taken by a Member under its taxation system which:

(i) apply to non-resident service suppliers in recognition of the fact that the tax obligation of non-residents is determined with respect to taxable items sourced or located in the Member State's territory; or

(ii) apply to non-residents in order to ensure the imposition or collection of taxes in the Member State's territory; or

(iii) apply to non-residents or residents in order to prevent the avoidance or evasion of taxes, including compliance measures; or

(iv) apply to consumers of services supplied in or from the territory of another Member State in order to ensure the imposition or collection of taxes of such consumers derived from sources in the Member State's territory; or

(v) distinguish service suppliers subject to tax on worldwide taxable items from other service suppliers, in recognition of the difference in the nature of the tax base between them; or

(vi) determine, allocate or apportion income, profit, gain, loss, deduction or credit of resident persons or branches, or between related persons or branches of the same person, in order to safeguard the Member State's tax base. Tax terms or concepts in paragraph 3(a) of Article 27 and in this footnote are determined according to tax definitions and concepts, or equivalent or similar definitions and concepts, under the domestic law of the Member State taking the measure.

## **Section II. Capital Movement**

### **Article 28.**

1. Within the framework of this Chapter, there shall be no restrictions between the Member States on the movement of capital relating to the establishment in another Member States territory of a company or firm of that Member State.

2. The movement of capital not relating to establishment between the Member States shall be ensured in accordance with the international agreements to which they are parties.

3. The Member States agree to review the present provision within two years after the entry into force of the Agreement amending the Convention establishing the European Free Trade Association of 21 June 2001 in order to broaden the scope of, and ultimately eliminate the remaining restrictions to, the movement of capital.

## **Chapter X. Trade In Services**

### **Article 29. Principles and Scope**

1. Within the framework of, and subject to, the provisions of this Convention, there shall be no restrictions on the right to supply services within the territory of the Member States in respect of natural persons, companies or firms of Member States who are established in a Member State other than that of the natural person, company or firm for whom the services are intended.

2. For the purposes of this Chapter, services shall be considered to be services within the meaning of this Convention where they are normally supplied for remuneration

(a) from the territory of one Member State into the territory of another Member State;

(b) in the territory of a Member State to the service consumer of another Member State in accordance with paragraph 7 below;

(c) by service supplier of a Member State, through presence of natural persons of that Member State in the territory of another Member State in accordance with paragraph 7 below.



3. Annexes L to O contain specific provisions and exemptions regarding the right to supply services. The Member States shall endeavour to eliminate gradually remaining discriminations, which they may maintain in accordance with Annexes L to O. The Member States agree to review the present provision, including its Annexes, within two years after the entry into force of the Agreement amending the Convention establishing the European Free Trade Association of 21 June 2001 with a view to reducing, and ultimately eliminating, the remaining restrictions.

4. From the date of entry into force of the Agreement amending the Convention establishing the European Free Trade Association of 21 June 2001, neither Member State shall adopt new, or more, discriminatory measures as regards services or service suppliers of another Member State, in comparison with the treatment accorded to its own like services or service suppliers.

5. In sectors covered by an exemption as contained in Annexes L to O, each Member State shall accord to services or service suppliers of another Member State treatment no less favourable than that accorded to like services or service suppliers of third parties other than the European Community. As regards any new agreements concluded between any Member State and the European Community, the Member States further undertake to extend to each other, on the basis of reciprocity, the benefits of such agreements, subject to a decision by the Council.

6. The right to supply services in the field of road, rail and air transport shall be governed by the provisions of Article 35 and Annexes P and Q, subject to the specific provisions and exemptions set out in Annex M.

7. The supply or consumption of services by natural persons as provided for in paragraphs 2(b) and (c) shall be governed by the relevant provisions of Article 20, Annex K and the Protocol to Annex K on movement of persons between Liechtenstein and Switzerland, in accordance with the principles set out hereinafter.

## **Article 30. National Treatment**

Within the scope of application of this Chapter, and without prejudice to any special provisions contained herein:

(a) Member States shall grant treatment no less favourable than that accorded to their own natural persons, companies or firms providing services;

(b) each Member State may regulate services activities within its territory in so far as these regulations do not discriminate against natural persons, companies or firms of the other Member States in comparison to its own natural persons, companies or firms.

## **Article 31. Financial Market Regulation**

1. In respect of financial services, this Chapter does not prejudice the right of the Member States to adopt measures necessary for prudential grounds in order to ensure the protection of investors, depositors, policy holders, or persons to whom a fiduciary duty is owed, or to ensure the integrity and stability of the financial system. These measures shall not discriminate against natural persons, companies or firms of the other Member States in comparison to its own natural persons, companies or firms.

2. Nothing in this Chapter shall be construed to require a Member State to disclose information relating to the affairs and accounts of individual customers or any confidential or proprietary information in the possession of public entities.

## **Article 32. Recognition**

1. The mutual recognition between the Member States of diplomas, certificates and other evidence of formal qualifications, and the coordination of the provisions laid down by law, regulation or administrative action in the Member States concerning the taking up and pursuit of activities by natural persons, shall be governed by the relevant provisions of Article 22, Annex K and Appendix 3 thereto and the Protocol to Annex K on movement of persons between Liechtenstein and Switzerland.

2. A Member State may enter into an agreement or arrangement with a particular State providing for the recognition of standards, criteria for authorization, licensing or certification of service suppliers, in which case it shall offer adequate opportunity for any other Member State to negotiate its accession to such an agreement or arrangement or to negotiate comparable ones with it.

3. Where a Member State accords recognition as provided for in paragraph 2 autonomously, it shall afford adequate opportunity for any other Member State to demonstrate that experience, licences or certifications obtained or requirements met in that other Member States territory should be recognised.

4. A Member State shall not accord recognition in a manner which would constitute a means of discrimination between countries in the application of its standards or criteria for the authorisation, licensing or certification of service suppliers, or a disguised restriction to trade in services.

## **Article 33. Exceptions**

1. The provisions of this Chapter shall not apply, so far as any given Member State is concerned, to activities which in that Member State are connected, even occasionally, with the exercise of official authority.

2. The provisions of this Chapter and measures taken in pursuance thereof shall not prejudice the applicability of provisions laid down by law, regulation or administrative action providing for special treatment of foreign service suppliers on grounds of public policy, public security, public health or the environment.

3. Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between States where like conditions prevail, or a disguised restriction on trade in services, nothing in this Convention shall be construed to prevent the adoption or enforcement by any Member State of measures:

(a) inconsistent with Article 30, provided that the difference in treatment is aimed at ensuring the equitable or effective (5) imposition or collection of direct taxes in respect of services or service suppliers of other Member States;

(b) inconsistent with paragraph 5 of Article 29, provided that the difference in treatment is the result of an agreement on the avoidance of double taxation or provisions on the avoidance of double taxation in any other international agreement or arrangement by which the Member State is bound.

5 Measures that are aimed at ensuring the equitable or effective imposition or collection of direct taxes include measures taken by a Member under its taxation system which: (i) apply to non-resident service suppliers in recognition of the fact that the tax obligation of non-residents is determined with respect to taxable items sourced or located in the Member State's territory; or (ii) apply to non-residents in order to ensure the imposition or collection of taxes in the Member State's territory; or (iii) apply to non-residents or residents in order to prevent the avoidance or evasion of taxes, including compliance measures; or (iv) apply to consumers of services supplied in or from the territory of another Member State in order to ensure the imposition or collection of taxes of such consumers derived from sources in the Member State's territory; or (v) distinguish service suppliers subject to tax on worldwide taxable items from other service suppliers, in recognition of the difference in the nature of the tax base between them; or (vi) determine, allocate or apportion income, profit, gain, loss, deduction or credit of resident persons or branches, or between related persons or branches of the same person, in order to safeguard the Member State's tax base. Tax terms or concepts in paragraph 3(a) of Article 27 and in this footnote are determined according to tax definitions and concepts, or equivalent or similar definitions and concepts, under the domestic law of the Member State taking the measure.

## **Article 34. Public Procurement**

Nothing in this Chapter shall be construed to impose any obligations with respect to public procurement.

## **Article 35. Transport**

The Member States shall liberalise the access to each others transport markets for the carriage of passengers and goods by road, rail and air in accordance with the provisions set out in Annex P and Annex Q respectively.

# **Chapter XI. Dumping**

## **Article 36.**

Anti-dumping measures, countervailing duties and measures against illicit commercial practices attributable to third countries shall not be applied in relations between the Member States.

# **Chapter XII. Public Procurement**

## **Article 37.**

1. The Member States reaffirm their rights and obligations under the WTO Agreement on Government Procurement (GPA). Under this Convention, the Member States broaden the scope of their commitments under the WTO Government Procurement Agreement with an aim to pursue liberalisation in public procurement markets in accordance with Annex R.

2. To this effect, the Member States shall secure non-discriminative, transparent and reciprocal access to their respective public procurement markets and shall ensure open and effective competition based on equal treatment.

## **Chapter XIII. Current Payments**

### **Article 38.**

Current payments connected with the movement of goods, persons, services or capital as defined in Article 28 between Member States within the framework of the provisions of this Convention shall be free of all restrictions.

## **Chapter XIV. Exceptions and Safeguards**

### **Article 39. Security Exceptions**

Nothing in this Convention shall prevent a Member State from taking any measures:

- (a) which it considers necessary to prevent the disclosure of information contrary to its essential security interests;
- (b) which relate to the production of, or trade in, arms, munitions and war materials or other products or services indispensable for defence purposes or to research, development or production indispensable for defence purposes, provided that such measures do not impair the conditions of competition in respect of products or services not intended for specifically military purposes;
- (c) which it considers essential to its own security in the event of serious internal disturbances affecting the maintenance of law and order, in time of war or serious international tension constituting threat of war or in order to carry out obligations it has accepted for the purpose of maintaining peace and international security.

### **Safeguard measures**

#### **Article 40.**

1. If serious economic, societal or environmental difficulties of a sectorial or regional nature liable to persist are arising, a Member State may unilaterally take appropriate measures under the conditions and procedures set out in Article 41.
2. Such safeguard measures shall be restricted with regard to their scope and duration to what is strictly necessary in order to remedy the situation. Priority shall be given to such measures as will least disturb the functioning of this Convention.
3. The safeguard measures shall apply with regard to all Member States.
4. This Article is without prejudice to the application of specific safeguard provisions set out in the Annexes to this Convention or of special safeguard measures in accordance with Article 5 of the WTO Agreement on Agriculture.

#### **Article 41.**

1. A Member State which is considering taking safeguard measures under Article 40, shall, without delay, notify the other Member States through the Council and shall provide all relevant information.
2. The Member States shall immediately enter into consultations in the Council with a view to finding a commonly acceptable solution.
3. The Member State concerned may not take safeguard measures until one month has elapsed after the date of notification under paragraph 1, unless the consultation procedure under paragraph 2 has been concluded before the expiration of the stated time limit. When exceptional circumstances requiring immediate action exclude prior examination, the Member State concerned may apply forthwith the protective measures strictly necessary to remedy the situation.
4. The Member State concerned shall, without delay, notify the measures taken to the Council and shall provide all relevant information.
5. The safeguard measures taken shall be the subject of consultations in the Council every three months from the date of their adoption with a view to their abolition before the date of expiry envisaged, or to the limitation of their scope of application.

Each Member State may at any time request the Council to review such measures.

## **Chapter XV. Economic and Monetary Policy Co-operation**

### **Article 42.**

The Member States shall exchange views and information concerning the implementation of this Convention and the impact of the integration on economic activities and on the conduct of economic and monetary policies. Furthermore, they may discuss macro-economic situations, policies and prospects. This exchange of views and information shall take place on a non-binding basis.

## **Chapter XVI. Institutional Provisions**

### **Article 43. The Council**

1. It shall be the responsibility of the Council

- (a) To exercise such powers and functions as are conferred upon it by this Convention;
- (b) To decide on amendments to this Convention in accordance with the provisions herein;
- (c) To supervise the application of this Convention and keep its operation under review;
- (d) To consider whether further action should be taken by Member States in order to promote the attainment of the objectives of the Association;
- (e) To facilitate the establishment of closer links with other States and unions of States;
- (f) To seek to establish such relationships with other international organisations as may facilitate the attainment of the objectives of the Association;
- (g) To negotiate trade and co-operation agreements between the Member States and any other State, union of States or international organisation;
- (h) To endeavour to resolve disputes that may arise regarding the interpretation or application of this Convention; and
- (i) To consider any other matter that may affect the operation of this Convention.

2. Each Member State shall be represented in the Council and shall have one vote.

3. The Council may decide to set up such organs, committees and other bodies, as

It considers necessary to assist it in accomplishing its tasks. These organs, committees and other bodies are listed in Annex S.

4. In exercising its responsibility under this Article, the Council may take

Decisions, which shall be binding on all Member States, and may make recommendations to Member States.

5. Decisions and recommendations of the Council shall be made by unanimous

Vote, except in so far as this Convention provides otherwise. Decisions or recommendations shall be regarded as unanimous unless any Member State casts a negative vote. Decisions and recommendations which are to be made by majority vote,

Require the affirmative vote of three Member States.

6. If the number of the Member States changes, the Council may decide to amend the number of votes required for decisions and recommendations which are to be made by majority vote.

### **Article 44. Administrative Arrangements of the Association**

The Council shall take decisions for the following purposes:

- (a) to lay down the Rules of Procedure of the Council and of any other bodies of the Association, which may include

provision that procedural questions may be decided by majority vote;

(b) to make arrangements for the secretariat services required by the Association;

(c) to establish the financial arrangements necessary for the administrative expenses of the Association, the procedure for establishing a budget and the apportionment of those expenses between the Member States.

## **Article 45. Legal Capacity, Privileges and Immunities**

1. The legal capacity, privileges and immunities to be recognised and granted by the Member States in connection with the Association shall be laid down in a Protocol to this Convention.

2. The Council, acting on behalf of the Association, may conclude with the Government of the State in whose territory the headquarters will be situated an agreement relating to the legal capacity and the privileges and immunities to be recognised and granted in connection with the Association.

## **Chapter XVII. Consultations and Dispute Settlement**

### **Article 46. Scope**

The provisions of this Chapter shall apply to any matter arising from this Convention, unless otherwise specified in this Convention.

### **Article 47. Consultations**

1. The Member States shall at all times endeavour to agree on the interpretation and application of this Convention, and shall make every attempt through cooperation and consultations to arrive at a mutually satisfactory resolution of any matter that might affect its operation.

2. Any Member State may bring any matter, which concerns the interpretation or application of this Convention before the Council. The Council shall be provided with all information, which might be of use in making possible an in-depth examination of the situation, with a view to finding an acceptable solution. To this end, the Council shall examine all possibilities to maintain the good functioning of the Convention.

3. A meeting of the Council shall be held within 30 days from the receipt of the request for consultations.

### **Article 48. Arbitration**

1. In case a Member State considers that a measure applied by another Member State violates the Convention and the matter has not been resolved within 45 days after consultations have been held pursuant to Article 47, such matter may be referred to arbitration by one or more Member States parties to the dispute by means of a written notification addressed to the Member State complained against. A copy of this notification shall be communicated to all Member States so that each may determine whether it has a substantial interest in the matter. Where more than one Member State requests the submission to an arbitration tribunal of a dispute with the same Member State relating to the same question a single arbitration tribunal should be established to consider such disputes whenever feasible.

2. A Member State which is not a party to the dispute, on delivery of a written notice to the disputing Member States, shall be entitled to make written submissions to the arbitration tribunal, receive written submissions of the disputing Member States, attend all hearings and make oral submissions.

3. The award of the arbitration tribunal shall be final and binding upon the Member States parties to the dispute and shall be complied with promptly.

4. The establishment and functioning of the arbitration tribunal and the implementation of arbitral awards are governed by the rules set out in Annex T.

## **Chapter XVIII. General Provisions**

### **Article 49. Obligations Under other International Agreements**

1. Nothing in this Convention shall be regarded as exempting any Member State from obligations which it has undertaken

by virtue of agreements with third States or multilateral agreements to which they are parties.

2. This Convention shall be without prejudice to the rules applicable to Member States governed by the Agreement on the European Economic Area, the Nordic cooperation and the regional union between Switzerland and Liechtenstein

## **Article 50. Rights and Obligations of the Member States**

The Member States shall take all appropriate measures, whether general or particular, to ensure fulfilment of the obligations arising out of this Convention. They shall abstain from any measure which could jeopardize the attainment of the objectives of this Convention.

## **Article 51. Transparency**

1. The Member States shall publish their laws, or otherwise make publicly available their laws, regulations, procedures and administrative rulings and judicial decisions of general application as well as the international agreements which may affect the operation of this Convention.

2. The Member States shall promptly respond to specific questions and provide, upon request, information to each other on matters referred to in paragraph 1.

## **Article 52. Confidentiality**

The representatives, delegates and experts of the Member States, as well as officials and other servants acting under this Convention shall be required, even after their duties have ceased, not to disclose information of the kind covered by the obligation of professional secrecy, in particular information about undertakings, their business relations or their cost components.

## **Article 53. Annex**

1. The Annexes, Appendices and Protocols to this Convention shall form an integral part of it.

2. The Annexes to this Convention are the following:

Arbitration.

Territorial application.

The Council may decide to amend the provisions to this paragraph.

3. The Council may decide to amend Annexes A, C, H, S and T, as well as the Appendices to Annexes E, F, K, P, Q and R, unless otherwise provided in the Annexes.

4.6. The Committee established under Annex I may decide to amend Article 3 of that Annex as well as the Appendix thereto. It shall inform the Council of its decisionmaking.

## **Article 54. Ratification**

1. This Convention shall be ratified by the signatory States. The instruments of ratification shall be deposited with the Government of Sweden, which shall notify all other signatory States.

2. The Government of Norway shall act as Depositary as of 17 November 1995.

3. The Council may decide to amend the provisions of this Article.

## **Article 55. Entry Into Force**

This Convention shall enter into force on the deposit of instruments of ratification by all signatory States.

## **Article 56. Accession and Association**

1. Any State may accede to this Convention, provided that the Council decides to approve its accession, on such terms and

conditions as may be set out in that decision. The instrument of accession shall be deposited with the Depositary, which shall notify all other Member States. This Convention shall enter into force in relation to an acceding State on the date indicated in that decision.

2. The Council may negotiate an agreement between the Member States and any other State, union of States or international organisation, creating an association embodying such reciprocal rights and obligations, common actions and special procedures as may be appropriate. Such an agreement shall be submitted to the Member States for acceptance and shall enter into force provided that it is accepted by all Member States. Instruments of acceptance shall be deposited with the Depositary, which shall notify all other Member States.

3. Any State acceding to this Convention shall apply to become a party to the free trade agreements between the Member States on the one hand and third states, unions of states or international organisations on the other.

## **Article 57. Withdrawal**

1. Any Member State may withdraw from this Convention provided that it gives twelve months notice in writing to the Depositary, which shall notify all other Member States.

2. Before the withdrawal takes effect, the Member States shall agree on appropriate arrangements and equitable cost-sharing relating to the withdrawal.

## **Article 58. Territorial Application**

This Convention shall apply to the territories of the Member States except as provided for in Annex U.

## **Article 59. Amendment**

Except as otherwise provided for in this Convention, an amendment to the provisions of this Convention shall be subject to a decision of the Council which shall be submitted to the Member States for acceptance in accordance with their internal legal requirements. It shall enter into force, unless otherwise provided, on the first day of the second month following the deposit of the instruments of acceptance by all Member States with the Depositary, which shall notify all other Member States.

IN WITNESS WHEREOF the undersigned, duly authorised thereto, have signed the present Convention.

DONE at Stockholm this 4th day of January, 1960, in a single copy in the English and French languages, both texts being equally authentic, which shall be deposited with the Government of Sweden, by which certified copies shall be transmitted to all other signatory and acceding States.

AMENDED at Vaduz this 21st day of June, 2001, in a single authentic copy in the English language, which shall be deposited with the Government of Norway.