

**DECISION OF THE STANDING COMMITTEE OF THE EFTA STATES****No 3/2005/SC****of 9 June 2005****on public access to EFTA documents and repealing Decision No 2/2002/SC of the Standing Committee of the EFTA States of 30 May 2002**

THE STANDING COMMITTEE OF THE EFTA STATES,

Having regard to Decision of the Standing Committee of the EFTA States No 2/2002/SC of 30 May 2002 on Public Access to Documents which is hereby repealed,

Recognising the public interest of open access to documents within a clearly defined legal framework, taking into account applicable national laws,

Having regard to the fact that, when handling requests for access to documents, the principle of openness shall be applied to the greatest extent possible,

HAS DECIDED AS FOLLOWS:

*Article 1*

The EFTA Secretariat shall make available to the public by placement on its website the documents listed in the Annex to this Decision.

*Article 2*

1. Any person may request access to EEA related documents (hereinafter referred to as 'documents') drawn up or received by the EFTA Secretariat which are in the EFTA Secretariat's possession.

2. Access to a document shall be granted unless the limitations in the following Articles apply.

*Article 3*

1. Access to a document shall be refused where disclosure would undermine the protection of:

(a) the public interest as regards: public security, defence and military matters, international relations, the financial, monetary or economic policy of an EFTA State,

(b) privacy and the integrity of the individual, in particular in accordance with the applicable national law of the EFTA States regarding the protection of personal data;

2. Access to a document shall be refused where disclosure would undermine the protection of:

(a) commercial interests of a natural or legal person, including intellectual property,

(b) court proceedings and legal advice,

(c) the purpose of inspections, investigations and audits.

3. Access to a document, drawn up for internal use, which relates to a matter where the decision has not been taken, shall be refused if disclosure of the document would undermine the decision-making process.

4. Access to a document containing opinions for internal use as part of deliberations and preliminary consultations shall be refused even after the decision has been taken if disclosure of the document would undermine the decision-making process.

5. As regards third-party documents transmitted to the EFTA Secretariat, the EFTA Secretariat shall consult the third party with a view to assessing whether an exception in paragraph 1 or 2 is applicable, unless it is clear that the document shall or shall not be disclosed.

6. In the cases of paragraphs 2-4 above, access shall nevertheless be granted, wholly or partly, if the EFTA States agree that an overriding public interest in disclosure exists.

*Article 4*

An EFTA State may request the EFTA Secretariat not to disclose documents originating from that State without its prior agreement.

*Article 5*

If only parts of the requested document are covered by any of the exceptions, the remaining parts of the document shall be released.

*Article 6*

1. Applications for access to a document shall be made in any written form, including electronic form, in the English language and in a sufficiently precise manner to enable the EFTA Secretariat to identify the document.

2. If an application is not sufficiently precise, the EFTA Secretariat shall ask the applicant to clarify the application and shall assist the applicant in doing so, for example, by providing information in accordance with Article 11.

3. In the event of an application relating to a very long document or to a very large number of documents, the EFTA Secretariat may confer with the applicant informally, with a view to finding a fair solution.

*Article 7*

1. An application for access to a document shall be handled promptly. An acknowledgement of receipt shall be sent to the applicant.

2. The EFTA Secretariat shall submit the request to the EFTA States for approval, unless it can be assured that the EFTA States would or would not refuse access to the document. The EFTA States shall decide without undue delay.

3. Upon receiving the response from the EFTA States, the EFTA Secretariat shall either inform the applicant that access to the requested document had been granted and provide access in accordance with Article 10 or, in a written reply, state the reasons for the total or partial refusal and inform the applicant of his or her right to refer the request to the Standing Committee of the EFTA States.

4. If it is not possible for the EFTA Secretariat to give the applicant an answer within 12 working days from the registration of the application, the applicant shall be informed in

writing of the delay and when the decision can be expected. The applicant shall be informed of his or her right to refer the request to the Standing Committee of the EFTA States if he or she has not received an answer within reasonable time.

5. In the event of a the total or partial refusal, the applicant may, within 15 working days of receiving the EFTA Secretariat's reply, refer the request to the Standing Committee of the EFTA States.

6. Failure by the EFTA Secretariat to reply within reasonable time from registration of the application entitles the applicant to refer the request to the Standing Committee of the EFTA states.

*Article 8*

A referral to the Standing Committee of the EFTA States shall be handled promptly. If access is wholly or partly refused, this shall be communicated to the applicant in a written reply stating the reasons for the refusal.

*Article 9*

The classification (Strictly confidential, Confidential, Restricted) of any given document does not in itself exclude it from access by the public at a later stage.

*Article 10*

1. The applicant shall have access to documents either by consulting them on the spot or by receiving a copy, including, where available, an electronic copy. The cost of producing and sending copies may be charged to the applicant. This charge shall not exceed the real cost of producing and sending the copies. Consultation on the spot, copies of less than 20 A4 pages and, if available, direct access in electronic form shall be free of charge.

2. If a document has already been released by the EFTA Secretariat and is easily accessible to the applicant, the EFTA Secretariat may fulfil its obligation of granting access to documents by informing the applicant how to obtain the requested document.

*Article 11*

1. The EFTA Secretariat shall keep a register of documents. Access to a list of documents contained in the register shall be provided upon request. References to documents shall be recorded in the register without delay.

2. For each document the register shall contain a reference number, the subject matter and/or a short description of the content of the document and the date on which it was received or drawn up and recorded in the register. References shall be made in a manner which does not undermine protection of the interests in Article 3.

*Article 12*

The EFTA Secretariat shall provide information and assistance to citizens on how and where applications for access to documents can be made.

*Article 13*

This Decision shall be without prejudice to any existing rules on copyright which may limit a third party's right to reproduce or exploit released documents.

*Article 14*

Decision No 2/2002/SC of the Standing Committee of the EFTA States of 30 May 2002 is hereby repealed.

*Article 15*

This Decision shall take effect 1 October 2005.

*Article 16*

This Decision shall be published in the EEA Section of, and the EEA Supplement to, the *Official Journal of the European Union*.

*Article 17*

This Decision shall be subject to a review within one year from its day of effect.

Done at Brussels, 9 June 2005.

*For the Standing Committee*

*The Chairman*

Bjørn T. GRYDELAND

*The Secretary-General*

William ROSSIER

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## ANNEX

**EEA RELATED EFTA DOCUMENTS TO BE MADE AVAILABLE TO THE PUBLIC ON THE INTERNET**

## EEA Agreement and related EFTA Agreements:

- Original versions of the EEA Agreement, the Surveillance and Court Agreement and the Standing Committee Agreement
- EEA Enlargement Agreement
- Consolidated version of the EEA Agreement
- Consolidated version of the Annexes and Protocols to the EEA Agreement
- Consolidated version of the Surveillance and Court Agreement
- Consolidated version of Standing Committee Agreement

## Instruments adopted by the institutions:

- Adopted Decisions of the EEA Council
- Adopted Decisions of the EEA Joint Committee
  - EEA Joint Parliamentary Committee resolutions
  - EEA Consultative Committee resolutions
  - EFTA Consultative Committee opinions
  - EEA EFTA Comment

## Agendas:

- EEA Council
- EEA Joint Committee
- Subcommittees under the EEA Joint Committee (upon agreement with the Commission)
- Standing Committee of the EFTA States
- Subcommittees under the Standing Committee of the EFTA States
- Working Groups under the Standing Committee of the EFTA States
- EFTA Parliamentary Committee
- EEA Joint Parliamentary Committee
- EFTA Consultative Committee
- EEA Consultative Committee

## Conclusions:

- EEA Council
- Standing Committee of the EFTA States
- Subcommittees under the Standing Committee of the EFTA States
- EEA Joint Committee (upon agreement with the Commission)
- Joint Subcommittee (upon agreement with the Commission)

## Reports:

- EFTA Parliamentary Committee
- EEA Joint Parliamentary Committee
- EFTA Consultative Committee
- EEA Consultative Committee

## Information documents:

- Annual report of the EEA Joint Committee
- EFTA Chair working programme
- EEA related statistics produced by the EFTA Statistical Office
- List of adopted decisions of the EEA Joint Committee
- List of awaited notifications under Article 103
- List of Decisions of the EEA Joint Committee with constitutional requirements
- List of Celex numbers
- Lists of proposals for EC legislation marked as EEA relevant by the Community
- List adopted EC acquis marked as EEA relevant by the Community and the EC acquis already identified as EEA relevant by the EEA EFTA experts from all EEA EFTA Member States
- Scoreboards of the Subcommittees under the EEA Joint Committee
- Press release
- EFTA Fact Sheet

## EEA Financial Mechanism:

- Rules and Procedures for the EEA Financial Mechanism
- Guidelines for the EEA Financial Mechanism
- Memoranda of Understanding for the EEA Financial Mechanism

## Norwegian Financial Mechanism:

- Rules and Procedures for the Norwegian Financial Mechanism
  - Guidelines for the Norwegian Financial Mechanism
  - Memoranda of Understanding for the Norwegian Financial Mechanism
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