

## Joint Declaration following the EFTA-EC ministerial meeting (Brussels, 19 December 1990)

**Caption:** On 19 December 1990, following a meeting in Brussels between the Ministers of the Twelve, led by Gianni de Michelis, Italian Foreign Minister and President-in-Office of the Council, and the Ministers of the countries of the European Free Trade Association (EFTA) and Liechtenstein, led by Jean-Pascal Delamuraz, Member of the Swiss Federal Council and President of the EFTA Council, in the presence of Jacques Delors and Frans Andriessen, President and Vice-President of the European Commission, and Georg Reisch, Secretary-General of EFTA, the participants adopt a joint declaration on the establishment of the European Economic Area (EEA).

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## Joint Declaration following the EFTA-EC ministerial meeting (Brussels, 19 December 1990)

The Ministers of the Member States and the Commission of the European Communities and the Ministers of the Member States of the European Free Trade Association and Liechtenstein met in Brussels on 19 December 1990.

The meeting was chaired, for the Community, by Mr. Gianni de Michelis, Minister of Foreign Affairs of Italy, President-in-office of the Council of the European Communities, and for the EFTA countries by Mr Jean-Pascal Delamuraz, Federal Councillor, Chairman of the EFTA Council. The Commission of the European Communities was represented by Mr. Jacques Delors, President, and Mr. Frans Andriessen, Vice-President. The list of participating Ministers is attached. Mr. Georg Reisch, Secretary-General of EFTA, also participated in the meeting.

The Participants agreed on the following Joint Declaration:

### I

Bearing in mind the political dialogue envisaged at their last joint meeting, they assessed developments in Europe and the ongoing negotiations between the Community and the EFTA countries on an agreement establishing the European Economic Area (EEA).

They underlined that since their last meeting a year ago to the day, Europe has witnessed the most profound transformations in its recent history. The political and economic reforms in Central and Eastern Europe and the unification of Germany have opened, for the first time during this century, the prospect of a new and lasting era of peace, democracy, respect for human rights, economic prosperity and social justice for all Europeans in the framework of the CSCE process.

In view of the difficult economic situation in the countries of Central and Eastern Europe, including the Soviet Union, Ministers saw an urgent need for increased solidarity with these countries and, their peoples. Ministers agreed to a continuation of joint action within the framework of the "Group of 24" and other fora as well as to close coordination of their efforts to strengthen trade links and cooperation with these countries.

They confirmed the high priority they attach to the privileged relationship between the Community, its Member States and the EFTA countries, which is based on proximity, long-standing common values and European identity. They underlined the important contribution which the EEA as a concrete expression of these relations would make as a building block in the new European architecture. In this context they stressed the significance of further development of the European Community in the interest of Europe as a whole.

### II

Recalling their joint declaration of December 1989, they therefore reiterated their firm political commitment to the rapid conclusion of a comprehensive EEA agreement based on equality which should ensure the greatest possible mutual interest for the parties concerned as well as the global and balanced character of their cooperation.

Having heard the respective reports on the current state of the negotiations, they noted with satisfaction that considerable progress has been achieved since the launching of the EEA negotiations on 20 June 1990, and welcomed the strong convergence of views already reached on several important issues. They also acknowledged that on other important points, negotiations have not yet sufficiently advanced and that further work is required. They noted that final agreement is dependent on a mutually acceptable solution to all the questions covered by the negotiations, both substantive and institutional, as well as on overall balance of rights and obligations.

They noted with satisfaction that the joint identification of the relevant "acquis communautaire" to be integrated into the EEA agreement as a common legal basis for the free movement of goods, services, capital and persons has largely been completed. The identified acquis comprises, in addition to the relevant content of the EEC Treaty, approximately 1400 legal acts. Further efforts were still required to complete the identification of the relevant acquis on some issues. They encouraged their negotiators actively to seek solutions to the outstanding issues.

The necessity for ensuring equal conditions of competition throughout the whole EEA was emphasized. To this end, the EEA competition rules should be based on the relevant articles of the EEC treaty and their application should lead to the same results throughout the EEA. The Ministers noted that the negotiators currently worked on the hypothesis of the establishment of an independent EFTA structure for the application of competition rules, entrusted with equivalent powers and similar functions as those exercised by the EC Commission. For the operation of such a system solutions will have to be negotiated on how to define the respective role of each structure, how to organize the cooperation between them as well as the role of the judicial mechanism.

With regard to problem areas in connection with the application of the acquis, they emphasized the objective to reconcile the ensurance of a high level of protection in the fields of health, safety and the environment with the free circulation of goods. They encouraged negotiators to seek appropriate solutions on a pragmatic case-by-case basis.

Moreover, they underlined the need to make further progress on questions of transport, free movement of persons and of capital; they noted, however, the evolution in the EFTA countries' position concerning the possible withdrawal of requests for permanent derogations and also noted the ongoing bilateral transit negotiations.

They noted at the same time that considerable progress had now been made on the question of safeguard mechanisms and that negotiators were working on the hypothesis that the main characteristics of such safeguard mechanisms should be: unilateral triggering, after notification and consultation with a view to finding a commonly acceptable solution, of proportionate safeguard measures which least disturb the functioning of the agreement, subject to monitoring and judicial procedures, with possibility for proportionate re-balancing measures under equivalent procedures. They encouraged the negotiators actively to pursue work on these issues.

They noted that in certain areas which were crucial for the global and balanced character of the agreement as well as for ensuring an overall balance of benefits for the parties concerned, major negotiation efforts were still needed. This was in particular the case for fisheries. Further progress was also necessary in the field of agriculture.

With respect to cooperation outside the four freedoms (flanking and horizontal policies), they emphasized that the EEA agreement should provide a firm legal basis for a comprehensive and dynamic cooperation. It should also promote the development of actions of common interest. Ministers emphasized the common objective to preserve, protect and improve the quality of the environment.

They agreed that negotiations should now be actively pursued on adequate ways and means in the context of the EEA to reduce regional economic and social disparities so as to ensure an overall balance of benefits for all contracting parties.

The questions such as steel, energy, anti-dumping rules, rules of origin, remain to be considered further.

Recalling that the decision-making autonomy of the parties should be fully respected, and that procedures should be provided for which effectively ensure that their views are taken into account, so as to facilitate the reaching of a consensus in decisions relating to the EEA, they noted that significant progress has been achieved in; the field of legal and institutional issues.

It was accepted that there should be equal opportunities for input by experts from the Contracting Parties in the preparation of EC proposals on new legislation on matters relevant to the EEA. The Contracting Parties will, by a continuous information and consultation process in the decision-shaping phase, use their best efforts, after identifying an issue as an EEA matter, to promote, in good faith, a common understanding. During this process they shall have the possibility to raise a matter of concern at any moment and at any level without causing additional delays (*droit d'évocation*). Decisions at EEA level would be taken by consensus, the EFTA countries speaking with one voice, and have the character of public international law; no transfer of legislative power to the EEA as such as is needed. All Contracting Parties should implement EEA rules in such a manner that, for the sake of homogeneity, they will be effectively applicable at the same time throughout the EEA. Further negotiations will take place on how to deal with the consequences arising if an agreement on new EEA rules cannot be reached.

They furthermore stressed the importance of legal homogeneity of EEA rules, in order that individuals and economic operators should benefit throughout the EEA from EEA rules which produce the same legal result and from equal conditions and treatment. To this end, they emphasized particularly the crucial importance of equally strong and reliable surveillance and enforcement throughout the whole EEA, comprising an efficient EEA surveillance system and an EEA judicial mechanism.

The institutional set-up of the decision-making process will comprise:

An EEA Council composed of the members of the EC Council, members of the EC Commission and Ministers of the EFTA countries, responsible in particular for:

- the general political guide-lines and impulse;
- the global assessment of the functioning and the development of the agreement, including if necessary the possibility of raising a matter of concern ("*droit d'évocation*")>
- the political decisions leading to the EEA agreement modifications.

An EEA joint body responsible for the implementation and operation of the agreement including the decisions regarding the EEA, to be taken by consensus of the EC on one side and the EFTA countries speaking with one voice on the other side.

They urged their negotiators to settle the other outstanding issues for a comprehensive agreement on the modalities of EEA decision-making. Tasks carried out by EC Committees will also be taken into consideration.

Ministers expressed their desire to see the EEA agreement enter into force on 1 January 1993. In the light of the ratification procedures needed they felt that all efforts should be made to sign the EEA agreement before the summer of 1991. They instructed their negotiators to intensify the negotiations to that end.