

AGREEMENT  
BETWEEN  
THE EFTA STATES  
AND  
THE REPUBLIC OF POLAND

**Note:** Austria, Finland and Sweden withdrew from the Convention establishing the European Free Trade Association (the Stockholm Convention) on 31 December 1994. In accordance with paragraph 3 of Article 38 of the Free Trade Agreement between the EFTA States and Poland these three countries ceased to be Parties to the Agreement on the same day. Consequently, in the present text, the provisions referring to Austria, Finland and Sweden have been deleted.

## **PREAMBLE**

The Republic of Iceland, the Principality of Liechtenstein, the Kingdom of Norway, the Swiss Confederation (hereinafter called the EFTA States)

and

the Republic of Poland (hereinafter called Poland),

Recalling their intention to participate actively in the process of economic integration in Europe and expressing their readiness to co-operate in seeking ways and means to strengthen this multilateral process,

Having regard to the Declaration signed by the EFTA States and Poland in Gothenburg in June 1990,

Recalling their firm commitment to the Final Act of the Conference on Security and Co-operation in Europe, the Charter of Paris for a new Europe, and in particular the principles contained in the final document of the CSCE Bonn Conference on Economic Co-operation in Europe,

Firmly convinced that this Free Trade Agreement, together with agreements of the States Parties to this Agreement with the European Communities, will foster the creation of an enlarged and harmonious free trade area within Europe, thus constituting an important contribution to European integration,

Bearing in mind the economic and social disparities between the EFTA States and Poland and thus recognizing that the objectives of this Agreement should be reached through its appropriate provisions,

Resolved to this end to eliminate progressively the obstacles to substantially all their trade, in accordance with the General Agreement on Tariffs and Trade,

Declaring their readiness to examine the possibility of developing and deepening their relations in order to extend them to fields not covered by this Agreement,

Considering that no provision of this Agreement may be interpreted as exempting the States Parties to this Agreement from their obligations under other international agreements, especially the General Agreement on Tariffs and Trade,

HAVE DECIDED, in pursuit of the above, to conclude this Agreement:

### **ARTICLE 1**

#### ***Objectives***

1. The EFTA States and Poland, taking into account the need of Poland to ensure the accelerated development of its economy, shall gradually establish, during a transitional period ending on 31 December 2001, a free trade area in accordance with the provisions of this Agreement.

2. The objectives of this Agreement, which is based on trade relations between market economies, are:

- (a) to promote, through the expansion of reciprocal trade, the harmonious development of the economic relations between the EFTA States and Poland and thus to foster in the EFTA States and in Poland the advance of economic activity, the improvement of living and employment conditions, and increased productivity and financial stability;
- (b) to provide fair conditions of competition for trade between the States Parties to this Agreement;
- (c) to contribute in this way, by the removal of barriers to trade, to European economic integration and the harmonious development and expansion of world trade.

## ARTICLE 2

### *Scope*

The Agreement shall apply:

- (a) to products falling within Chapters 25 to 97 of the Harmonized Commodity Description and Coding System, excluding the products listed in Annex I;
- (b) to products specified in Protocol A, with due regard to the arrangements provided for in that Protocol;
- (c) to fish and other marine products as provided for in Annex II;

originating in an EFTA State or Poland.

## ARTICLE 3

### *Rules of origin and co-operation in customs administration*

- 1. Protocol B lays down the rules of origin and methods of administrative co-operation.
- 2. The States Parties to this Agreement shall take appropriate measures, including regular reviews by the Joint Committee and arrangements for administrative co-operation, to ensure that the provisions of Articles 4 to 9, 14 and 23 of the Agreement and Protocol B are effectively and harmoniously applied, and to reduce, as far as possible, the formalities imposed on trade, and to achieve mutually satisfactory solutions to any difficulties arising out of the operation of those provisions.

## ARTICLE 4

### ***Customs duties on imports and charges having equivalent effect***

1. No new customs duty on imports or charge having equivalent effect shall be introduced in trade between the EFTA States and Poland.
2. Upon the date of entry into force of this Agreement, the EFTA States shall abolish all customs duties on imports and any charges having equivalent effect for products originating in Poland, except for products specified in Annex III <sup>1</sup> for which customs duties on imports and charges having equivalent effect shall be progressively abolished in accordance with the provisions laid down in that Annex.
3. For products originating in an EFTA State, Poland shall progressively abolish in five equal annual steps starting on 1 January 1995 all customs duties on imports and any charges having equivalent effect, except for products specified in Annex IV <sup>2</sup> for which customs duties and charges having equivalent effect shall be abolished on the date of entry into force of this Agreement and for products specified in Annex V for which customs duties and charges having equivalent effect shall be progressively abolished in accordance with the timetable laid down in that Annex.

## ARTICLE 5

### ***Basic duties***

1. For each product the basic duty to which the successive reductions set out in this Agreement are to be applied shall be the Most Favoured Nation rate of duty applicable on 29 February 1992.
2. If, after the entry into force of this Agreement, any tariff reduction is applied on an erga omnes basis, in particular reductions resulting from the tariff agreement concluded as a result of the Uruguay Round of Multilateral Trade Negotiations, such reduced duties shall replace the basic duties referred to in paragraph 1 as from the date when such reductions are applied.
3. The reduced duties calculated in accordance with Article 4 shall be applied rounded to the first decimal place or, in case of specific duties, to the second decimal place.

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<sup>1</sup> Annex III was deleted by Joint Committee Decision No. 2 of 1999 (23 November 1999).

<sup>2</sup> Annex IV was deleted by Joint Committee Decision No. 3 of 1999 (23 November 1999).

## ARTICLE 6

### ***Customs duties of a fiscal nature***

1. The provisions of paragraphs 1 to 3 of Article 4 shall also apply to customs duties of a fiscal nature, except as provided for in Protocol C.
2. The States Parties to this Agreement may replace a customs duty of a fiscal nature or the fiscal element of a customs duty by an internal tax.

## ARTICLE 7

### ***Customs duties on exports and charges having equivalent effect***

1. No new customs duty on exports or charge having equivalent effect shall be introduced in trade between the EFTA States and Poland.
2. The EFTA States shall abolish on the entry into force of the Agreement any customs duties on exports and any charges having equivalent effect, except as provided for in Annex VI.
3. Poland shall progressively abolish any customs duties on exports and any charges having equivalent effect. Such duties and charges shall be eliminated at the latest on 1 January 1997.

## ARTICLE 8

### ***Quantitative restrictions on imports and measures having equivalent effect***

1. No new quantitative restriction on imports or measures having equivalent effect shall be introduced in trade between the EFTA States and Poland.
2. Quantitative restrictions and measures having equivalent effect on imports into the EFTA States shall be abolished on the date of entry into force of the Agreement, except as provided for in Annex VII.<sup>1</sup>
3. Quantitative restrictions and measures having equivalent effect on imports into Poland of products originating in the EFTA States shall be abolished in accordance with the provisions and the timetable laid down in Annex VIII.

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<sup>1</sup> Annex VII was deleted by Joint Committee Decision No. 4 of 1999 (23 November 1999).

## ARTICLE 9

### ***Quantitative restrictions on exports and measures having equivalent effect***

1. No new quantitative restriction on exports or measures having equivalent effect shall be introduced in trade between the EFTA States and Poland.
2. Quantitative restrictions on exports from the EFTA States and measures having equivalent effect shall be abolished on the date of entry into force of the Agreement, except as provided for in Annex IX.<sup>1</sup>
3. Quantitative restrictions on exports from Poland and measures having equivalent effect shall be abolished on the date of entry into force of the Agreement, except as provided for in Annex X.

## ARTICLE 10

### ***General exceptions***

This Agreement 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 the environment; the protection of national treasures of artistic, historic or archaeological value; the protection of intellectual property; or rules relating to gold or silver. Such prohibitions or restrictions shall not, however, constitute a means of arbitrary discrimination or a disguised restriction on trade between the States Parties to this Agreement.

## ARTICLE 11

### ***State monopolies***

1. The States Parties to this Agreement shall ensure that any state monopoly of a commercial character be adjusted, subject to the provisions laid down in Protocol D, so that no discrimination regarding the conditions under which goods are procured and marketed will exist between nationals of the EFTA States and of Poland.
2. The provisions of this Article shall apply to any body through which the competent authorities of the States Parties to this Agreement, in law or in fact, either directly or indirectly supervise, determine or appreciably influence imports or exports between the States Parties to this Agreement. These provisions shall likewise apply to monopolies delegated by the State to others.

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<sup>1</sup> Annex IX was deleted by Joint Committee Decision No. 5 of 1999 (23 November 1999).

## ARTICLE 12 <sup>1</sup>

### ***Information procedure on draft technical regulations***

1. The EFTA States and Poland shall notify each other, at the earliest practicable stage and in accordance with the provisions laid down in Annex XI, of draft technical regulations and draft amendments thereto, which they intend to issue.
2. The States Parties to this Agreement shall endeavour to implement this procedure within two years from the entry into force of the Agreement. If this does not turn out to be fully possible, the Joint Committee shall prolong this period.

## ARTICLE 13

### ***Trade in agricultural products***

1. The States Parties to this Agreement declare their readiness to foster, in so far as their agricultural policies allow, harmonious development of trade in agricultural products, taking into account its high importance for Poland's economy.
2. In pursuance of this objective each individual EFTA State and Poland have concluded a bilateral arrangement providing for measures to facilitate trade in agricultural products.
3. The States Parties to this Agreement shall apply their regulations in veterinary, plant health and health matters in a non-discriminatory way and shall not introduce any new measures that have the effect of unduly obstructing trade.

## ARTICLE 14

### ***Internal taxation***

1. The States Parties to this Agreement shall refrain from any measure or practice of an internal fiscal nature establishing, whether directly or indirectly, discrimination between the products originating in an EFTA State and like products originating in Poland.
2. Products exported to the territory of one of the States Parties to this Agreement may not benefit from repayment of internal taxation in excess of the amount of direct or indirect taxation imposed on them.

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<sup>1</sup> Article 12 was amended by Joint Committee Decision No. 6 of 1999 (23 November 1999). The Decision will enter into force when the instruments of acceptance have been deposited by all Parties with the Depositary.

## ARTICLE 15

### *Payments*

1. Payments relating to trade in goods between an EFTA State and Poland and the transfer of such payments to the territory of the State Party to this Agreement where the creditor resides shall be free from any restrictions.
2. The States Parties to this Agreement shall refrain from any exchange or administrative restrictions on the grant, repayment or acceptance of short and medium-term credits covering commercial transactions in which a resident participates.
3. Until a full convertibility of the Polish currency in the meaning of Article VIII of the Agreement of the International Monetary Fund is introduced, Poland reserves the right to apply exchange restrictions connected with the granting or taking up of short and medium-term credits to the extent permitted according to Poland's status under the IMF, provided that these restrictions are applied in a non-discriminatory manner as regards the origin of the products and that they are not applied only to specific products or kinds of products.

## ARTICLE 16

### *Public procurement*

1. The States Parties to this Agreement consider the effective liberalization of their respective public procurement markets as a desirable and important objective of this Agreement.
2. As of the entry into force of this Agreement, the EFTA States shall grant Polish companies access to contract award procedures on their respective public procurement markets according to the Agreement on Government Procurement of 12 April 1979, as amended by a Protocol of Amendments of 2 February 1987, negotiated under the auspices of the General Agreement on Tariffs and Trade. Poland shall, taking into account the restructuring and development process of its economy, gradually ensure that companies from the EFTA States have access on the same principles to contract award procedures on its public procurement market.
3. As soon as possible after the entry into force of the Agreement, the States Parties to this Agreement shall progressively develop and adjust the rules, conditions and practices governing the participation in public procurement contracts, so as to ensure free access and transparency, and that there is no discrimination between potential suppliers from the States Parties to this Agreement. After a period of decreasing asymmetry in favour of Poland in their relations, a full balance of rights and obligations between the States Parties to this Agreement shall be established not later than at the end of the transitional period.



4. The Joint Committee shall recommend or agree, as appropriate, the practical modalities for this development including, inter alia, scope, timetable and rules to be applied, and designation of entities awarding public procurement contracts, that is public authorities, public undertakings and private undertakings which have been granted special or exclusive rights.

5. The States Parties concerned shall endeavour to accede to the relevant Agreements negotiated under the auspices of the General Agreement on Tariffs and Trade.

## ARTICLE 17

### *Protection of intellectual property*

1. The States Parties to this Agreement shall grant and ensure non-discriminatory protection of intellectual property rights, including measures for the grant and enforcement of such rights. The protection shall be gradually improved and, before 31 December 1996, shall be of a level similar to that prevailing in the area of the States Parties to this Agreement.

2. The States Parties to this Agreement agree to comply before 31 December 1996 with the substantive standards of the multilateral agreements which are specified in Annex XII; they shall make best endeavours to adhere to them as well as to other multilateral agreements facilitating co-operation in the field of intellectual property rights, reserving the sovereign right of the States Parties to this Agreement to decide on it.

3. For the purpose of this Agreement, "intellectual property protection" includes in particular protection of copyright, comprising computer programmes and databases, and neighbouring rights, trademarks, geographical indications, industrial designs, patents, topographies of integrated circuits, as well as undisclosed information on know-how.

4. (a) The States Parties to this Agreement shall not grant treatment less favourable to nationals of each other in the field of intellectual property than that accorded to nationals of any other country. Any advantage, favour, privilege or immunity deriving from:

- (i) bilateral agreements in force for a State Party to this Agreement at the entry into force of this Agreement as notified to the other States Parties by 1 January 1994,
- (ii) existing and future multilateral agreements, including regional agreements on economic integration to which not all of the States Parties to this Agreement are Parties,

may be exempted from this obligation, provided that it does not constitute an arbitrary or unjustifiable discrimination of nationals of the other States Parties.

- (b) Two or more States Parties to this Agreement may conclude further agreements exceeding the requirements of this Agreement, provided that such agreements shall be open to all other States Parties to this Agreement on terms equivalent to those under the agreements and that they shall be ready to enter into good faith negotiations to this end.

5. The States Parties to this Agreement shall ensure in their national laws that compulsory licensing of patents shall be non-exclusive, non-discriminatory, subject to compensation commensurate with the market value for the licence of the patent and to judicial review. The scope and duration of such licence shall be limited to the purpose for which it was granted. Licences granted on the ground of non-working shall be used only to the extent necessary to satisfy the local market on reasonable commercial terms.

6. The States Parties to this Agreement shall ensure that the procedures for grant or registration or maintenance of intellectual property rights and the enforcement procedures be fair and equitable. They shall not be unnecessarily complicated and costly, or entail unreasonable time-limits or unwarranted delays. Enforcement provisions shall include in particular injunctions, damages adequate to compensate for the injury suffered by the right holder, as well as provisional measures, including *inaudita altera parte* ones.

- 7. (a) The States Parties to this Agreement shall establish appropriate modalities for technical assistance and co-operation of their respective authorities. To this end, they shall co-ordinate efforts with relevant international organizations, such as the World Intellectual Property Organization (WIPO) and the European Patent Organisation (EPO).

- (b) The States Parties to this Agreement agree to promptly hold expert consultations, at the request of any State Party to this Agreement, on activities relating to the existing or to future international conventions on harmonization, administration and enforcement of intellectual property and on activities in international organizations, such as the General Agreement on Tariffs and Trade and the World Intellectual Property Organization, as well as relations of States Parties with third countries on matters concerning intellectual property.

## ARTICLE 18

### *Rules of competition concerning undertakings*

1. The following are incompatible with the proper functioning of this Agreement in so far as they may affect trade between an EFTA State and Poland:

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

- (b) abuse by one or more undertakings of a dominant position in the territories of the States Parties to this Agreement as a whole or in a substantial part thereof.

2. These provisions shall also apply to the activities of public undertakings and undertakings for which the States Parties to this Agreement grant special or exclusive rights, in so far as the application of these provisions does not obstruct the performance, in law or fact, of their particular public tasks.

3. If a State Party to this Agreement considers that a given practice is incompatible with this Article, it may take appropriate measures it considers necessary to deal with the serious difficulties resulting from the practices in question under the conditions and in accordance with the procedures laid down in Article 25.

## ARTICLE 19

### *State aid*

1. Any aid granted by a State Party to this Agreement or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it may affect trade between an EFTA State and Poland, be incompatible with the proper functioning of this Agreement.

2. Any practices contrary to paragraph 1 should be assessed on the basis of the criteria set out in Annex XIII.

3. For the purpose of applying the provisions of paragraph 1, Poland may until 31 December 1996 grant aid with a higher intensity than would be tolerated for EFTA States according to the criteria set out in Annex XIII, with a view to promote its economic reform and development. The Joint Committee may, taking into account the economic situation of Poland, decide on a possible prolongation of the application of this provision.

4. The States Parties to this Agreement shall ensure transparency of state aid measures by exchanging information as provided for in Annex XIV. The Joint Committee shall within one year after the entry into force of the Agreement, adopt the necessary rules for the implementation of this paragraph.

5. If a State Party to this Agreement considers that a given practice is incompatible with paragraph 1, it may take appropriate measures under the conditions and in accordance with the procedures laid down in Article 25.

## ARTICLE 20

### ***Dumping***

If an EFTA State finds that dumping within the meaning of Article VI of the General Agreement on Tariffs and Trade is taking place in its trade with Poland, or if Poland finds that dumping within this meaning is taking place in its trade with an EFTA State, the State Party concerned may take appropriate measures against this practice in accordance with the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade and with the procedure laid down in Article 25.

## ARTICLE 21

### ***Emergency action on imports of particular products***

Where any product is being imported in such increased quantities and under such conditions as to cause, or threaten to cause:

- (a) serious injury to domestic producers of like or directly competitive products in the territory of the importing State Party to this Agreement, or
- (b) serious disturbances in any sector of the economy or difficulties which could bring about serious deterioration in the economic situation of a region,

the State Party concerned may take appropriate measures under the conditions and in accordance with the procedure laid down in Article 25.

## ARTICLE 22

### ***Structural adjustment***

1. Exceptional measures of limited duration which derogate from the provisions of Article 4 may be taken by Poland in the form of increased customs duties.
2. These measures may only concern infant industries, or certain sectors undergoing restructuring or facing serious difficulties, particularly where these difficulties produce important social problems.
3. Customs duties on imports applicable in Poland to products originating in the EFTA States, introduced by these measures may not exceed 25% ad valorem and shall maintain an element of preference for products originating in the EFTA States. The total value of imports of the products which are subject to these measures may not exceed 15% of total imports of industrial products from the EFTA States, as defined in Article 2, during the last year for which statistics are available.

4. These measures shall be applied for a period not exceeding five years unless a longer duration is authorized by the Joint Committee. They shall cease to apply at the latest at the expiration of the transitional period.

5. No such measures can be introduced in respect of a product if more than three years have elapsed since the elimination of all duties and quantitative restrictions or charges or measures having equivalent effect concerning that product.

6. Poland shall inform the Joint Committee of any exceptional measures it intends to take and, at the request of the EFTA States, consultations shall be held in the Joint Committee on such measures and the sectors to which they apply before they are applied. When taking such measures Poland shall provide the Joint Committee with a schedule for the elimination of the customs duties introduced under this Article. This schedule shall provide for a phasing out of these duties starting at the latest two years after their introduction, at equal annual rates. The Joint Committee may decide on a different schedule.

## ARTICLE 23

### ***Re-export and serious shortage***

Where compliance with the provisions of Articles 7 and 9 leads to:

- (a) re-export towards a third country against which the exporting State Party to this Agreement maintains for the product concerned quantitative export restrictions, export duties or measures or charges having equivalent effect; or
- (b) a serious shortage, or threat thereof, of a product essential to the exporting State Party to this Agreement;

and where the situations referred to above give rise or are likely to give rise to major difficulties for the exporting Party, that State Party may take appropriate measures under the conditions and in accordance with the procedures laid down in Article 25.

## ARTICLE 24

### ***Balance of payments difficulties***

1. Where an EFTA State or Poland is in serious balance of payments difficulties, or under imminent threat thereof, the EFTA State or Poland, as the case may be, may, in accordance with the conditions established under the General Agreement on Tariffs and Trade, adopt trade restrictive measures, which shall be of limited duration and may not go beyond what is necessary to remedy the balance of payments situation. The measures shall be progressively relaxed as balance of payments conditions improve and they shall be eliminated when conditions no longer justify this maintenance. The EFTA State or Poland, as the case

may be, shall inform the other States Parties to this Agreement and the Joint Committee forthwith of their introduction and, whenever practicable, of a time schedule for their removal.

2. The State Parties to this Agreement shall, nevertheless, endeavour to avoid the imposition of restrictive measures for balance of payments purposes.

## ARTICLE 25

### *Procedure for the application of safeguard measures*

1. Before initiating the procedure for the application of safeguard measures set out in this Article, the States Parties to this Agreement shall endeavour to solve any differences between them through direct consultations, and inform the other States Parties to this Agreement thereof.

2. Without prejudice to paragraph 6 of this Article, a State Party to this Agreement which considers resorting to safeguard measures shall promptly notify the other States Parties to this Agreement and the Joint Committee thereof and supply all relevant information. Consultations between the States Parties to this Agreement shall take place without delay in the Joint Committee with a view to finding a commonly acceptable solution.

3. (a) As regards Articles 18 and 19, the States Parties concerned shall give to the Joint Committee all the assistance required in order to examine the case and, where appropriate, eliminate the practice objected to. If the State Party in question fails to put an end to the practice objected to within the period fixed by the Joint Committee or if the Joint Committee fails to reach an agreement within three months of the matter being referred to it, the State Party concerned may adopt the appropriate measures to deal with the difficulties resulting from the practice in question.

(b) As regards Articles 20, 21 and 23, the Joint Committee shall examine the case or the situation and may take any decision needed to put an end to the difficulties notified by the State Party concerned. In the absence of such a decision within thirty days of the matter being referred to the Joint Committee, the State Party concerned may adopt the measures necessary in order to remedy the situation.

(c) As regards Article 31, the State Party concerned may take appropriate measures after the consultations have been concluded or a period of three months has elapsed from the date of notification.

4. The safeguard measures taken shall be notified immediately to the States Parties to this Agreement and to the Joint Committee. The measures shall be restricted with regard to their extent and to their duration to what is strictly necessary in order to rectify the situation giving rise to their application and shall not be in excess of the injury caused by the practice or the

difficulty in question. Priority shall be given to such measures as will least disturb the functioning of the Agreement. The measures taken by Poland against an action or an omission of an EFTA State may only affect the trade with that State. The measures taken against an action or omission of Poland may be only taken by that or those EFTA States the trade of which is affected by the said action or omission.

5. The safeguard measures taken shall be the object of regular consultations within the Joint Committee with a view to their relaxation, substitution or abolition as soon as possible.

6. Where exceptional circumstances requiring immediate action make prior examination impossible, the State Party concerned may, in the cases of Articles 20, 21 and 23 and in cases of state aid having a direct and immediate incidence on trade between the States Parties, apply forthwith the precautionary measures strictly necessary to remedy the situation. The measures shall be notified without delay and consultations between the States Parties to this Agreement shall take place as soon as possible within the Joint Committee.

## ARTICLE 26

### *Security exceptions*

Nothing in this Agreement shall prevent a State Party to this Agreement from taking any measures which it considers necessary:

- (a) to prevent the disclosure of information contrary to its essential security interests;
- (b) for the protection of its essential security interests or for the implementation of international obligations or national policies
  - (i) relating to the traffic in arms, ammunition and implements of war, provided that such measures do not impair the conditions of competition in respect of products not intended for specifically military purposes, and to such traffic in other goods, materials and services as is carried on directly or indirectly for the purpose of supplying a military establishment; or
  - (ii) relating to the non-proliferation of biological and chemical weapons, nuclear weapons or other nuclear explosive devices; or
  - (iii) taken in time of war or serious international tension constituting threat of war.

## ARTICLE 27

### *The Joint Committee*

1. The implementation of this Agreement shall be supervised and administered by the Joint Committee established under the Gothenburg Declaration.
2. For the purpose of the proper implementation of the Agreement, the States Parties to this Agreement shall exchange information and, at the request of any State Party to this Agreement, shall hold consultations within the Joint Committee. The Committee shall keep under review the possibility of further removal of the obstacles to trade between the EFTA States and Poland.
3. The Joint Committee may take decisions in the cases provided for in this Agreement. On other matters the Committee may make recommendations.

## ARTICLE 28

### *Procedures of the Joint Committee*

1. For the proper implementation of this Agreement, the Joint Committee shall meet whenever necessary but at least once a year. Each State Party to this Agreement may request that a meeting be held.
2. The Joint Committee shall act by common agreement.
3. If a representative in the Joint Committee of a State Party to this Agreement has accepted a decision subject to the fulfilment of constitutional requirements, the decision shall enter into force, if no later date is contained therein, on the day the withdrawal of the reservation is notified.
4. The Joint Committee shall adopt its rules of procedure which shall, inter alia, contain provisions for convening meetings and for the designation of the Chairman and his term of office.<sup>1</sup>
5. The Joint Committee may decide to set up such sub-committees and working parties as it considers necessary to assist it in accomplishing its tasks.<sup>2</sup>

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<sup>1</sup> Rules of procedure were adopted by Joint Committee Decision No. 1 of 1994 (27 October 1994).

<sup>2</sup> A Sub-Committee on Customs and Origin Matters was established by Joint Committee Decision No. 2 of 1994 (27 October 1994).



## ARTICLE 29

### ***Evolutionary clause***

1. Where a State Party to this Agreement considers that it would be useful in the interests of the economies of the States Parties to this Agreement to develop and deepen the relations established by the Agreement by extending them to fields not covered thereby, it shall submit a reasoned request to the States Parties to this Agreement. The States Parties to this Agreement may instruct the Joint Committee to examine this request and, where appropriate, to make recommendations to them, particularly with a view to opening negotiations.
2. Agreements resulting from the procedure referred to in paragraph 1 will be subject to ratification or approval by the States Parties to this Agreement in accordance with their own procedures.

## ARTICLE 30

### ***Services and investment***

1. The States Parties to this Agreement recognize the growing importance of certain areas, such as services and investments. In their efforts to gradually develop and broaden their co-operation, in particular in the context of European integration, they will co-operate with the aim of achieving a progressive liberalization and mutual opening of markets for investments and trade in services, taking into account relevant GATT work.
2. The EFTA States and Poland will discuss in the Joint Committee the possibilities to extend their trade relations to the fields of foreign direct investment and trade in services.

## ARTICLE 31

### ***Fulfilment of obligations***

1. The States Parties to this Agreement shall take all necessary measures to ensure the achievement of the objectives of the Agreement and the fulfilment of their obligations under the Agreement.
2. If an EFTA State considers that Poland has, or if Poland considers that an EFTA State has failed to fulfil an obligation under this Agreement, the State Party concerned may take the appropriate measures under the conditions and in accordance with the procedures laid down in Article 25.

## ARTICLE 32

### ***Annexes and Protocols***

The Annexes and the Protocols to this Agreement are an integral part of it. The Joint Committee may decide to amend the Annexes, and Protocols A and B.

## ARTICLE 33

### ***Trade relations governed by other Agreements***

This Agreement applies to trade relations between, on the one side, the individual EFTA States and, on the other side, Poland, but not to the trade relations between individual EFTA States, unless otherwise provided for in this Agreement.

## ARTICLE 34

### ***Customs unions, free trade areas and frontier trade***

This Agreement shall not prevent the maintenance or establishment of customs unions, free trade areas or arrangements for frontier trade to the extent that these do not negatively affect the trade regime and in particular the provisions concerning rules of origin provided for by this Agreement.

## ARTICLE 35

### ***Territorial application***

This Agreement shall apply to the territories of the States Parties to the Agreement.

## ARTICLE 36

### ***Amendments***

Amendments to this Agreement other than those referred to in paragraph 3 of Article 27 which are approved by the Joint Committee shall be submitted to the States Parties to this Agreement for acceptance and shall enter into force if accepted by all the States Parties to this Agreement. The instruments of acceptance shall be deposited with the Depositary.

## ARTICLE 37

### *Accession*

1. Any State, becoming a Member of the European Free Trade Association, may accede to this Agreement, provided that the Joint Committee decides to approve its accession, to be negotiated between the acceding State and the States Parties concerned, on such terms and conditions as may be set out in that decision. The instrument of accession shall be deposited with the Depositary.
2. In relation to an acceding State, the Agreement shall enter into force on the first day of the third month following the deposit of its instrument of accession.

## ARTICLE 38

### *Withdrawal and expiration*

1. Each State Party to this Agreement may withdraw therefrom by means of a written notification to the Depositary. The withdrawal shall take effect six months after the date on which the notification is received by the Depositary.
2. If Poland withdraws, the Agreement shall expire at the end of the notice period, and if all EFTA States withdraw it shall expire at the end of the latest notice period.
3. Any EFTA Member State which withdraws from the Convention establishing the European Free Trade Association shall *ipso facto* on the same day as the withdrawal takes effect cease to be a State Party to this Agreement.

## ARTICLE 39

### *Entry into force*

1. This Agreement shall enter into force on 1 April 1993 in relation to those Signatory States which by then have deposited their instruments of ratification or acceptance with the Depositary, provided that Poland is among the States that have deposited their instruments of ratification or acceptance.
2. In relation to a Signatory State depositing its instrument of ratification or acceptance after 1 April 1993, this Agreement shall enter into force on the first day of the second month following the deposit of its instrument, provided that in relation to Poland the Agreement enters into force at the latest on the same date.
3. Any Signatory State may already at the time of signature declare that, during an initial phase, it shall apply the Agreement provisionally, if the Agreement cannot enter into force in relation to that State by 1 April 1993, provided that in relation to Poland the Agreement has entered into force.

ARTICLE 40 <sup>1</sup>

***Depositary***

The Government of Sweden, acting as Depositary, shall notify all States that have signed or acceded to this Agreement of the deposit of any instrument of ratification, acceptance or accession, as well as of the entry into force of this Agreement, of its expiry or of any withdrawal therefrom.

IN WITNESS WHEREOF the undersigned plenipotentiaries, being duly authorized thereto, have signed the present Agreement.

DONE at Geneva, this 10th day of December 1992, in a single authentic copy in the English language which shall be deposited with the Government of Sweden. The Depositary shall transmit certified copies to all Signatory States, and States acceding to this Agreement.

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<sup>1</sup> Article 40 was amended by Joint Committee Decision No. 7 of 1996 (26 June 1996). The Decision will enter into force when the instruments of acceptance have been deposited by all Parties with the Depositary.