

Norway and the European Economic Area: Good Deal or Just an EU Rule-Taker?

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COMMENT

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[European Commission Meeting, Mission of Norway to the EU, CC-BY-2.0](#)

After more than 20 years in the European Economic Area (EEA), it may look as if this remains the solution for Norway – part of the EU's single market but not an actual EU member state. There is no great political push to change Norway's status for now but there are still debates on the political, economic and institutional pluses and minuses of being on the margins of the EU not at its heart.

Start of the EEA in the 1990s

The EEA agreement was signed by Norway in 1992 and became operative on 1 January 1994. Along with Liechtenstein and Iceland, there are just three countries in the EEA, although Switzerland is in the European Free Trade Area with these three countries (a necessary precursor to being in the EEA).

The EFTA Surveillance Authority (ESA) was set up as an oversight/control body, similar to the European Commission for EU member states – but here for the three EEA/EFTA states. From this point onwards, EU single market regulations and law also became Norwegian regulations and law. The agreement made it possible for Norway to participate in the single market in line with full EU member states. The main sectors exempted were agriculture and fishery.

Some participation but no vote

The EEA agreement involved transferring sovereignty from the nation state to ESA and the EFTA court – but not formally to the EU – in a two-pillar structure. EFTA countries can be involved in preparing new rules and laws by participating in EU committees that propose new rules or changes in rules. However, it is the EU that makes the final decision without their involvement: the EFTA countries have no voting rights. “The EEA agreement gives them the right to be consulted by the Commission during the formulation of Community legislation, but not the right to a voice in decision-making, which is reserved exclusively for member states”.

EFTA countries must accept a new law or regulation unanimously, which means that each country has the right, in theory, to veto its implementation in the EEA committee. While Norway has the right to veto domestic implementation of, for example, a directive in Norway, it cannot veto its implementation in the EU area. General rules, such as in the practice and application of competition law, cannot be vetoed, and are to be handled by supranational organs such as the ESA and the EFTA court. As yet, no EFTA country has made use of the veto right. This is partly due to the fact that, in case of a veto or reservation, the EU, on its side, can then take the entire area in question out of the agreement, which may entail substantial disadvantages for EFTA countries.

The EEA agreement is dynamic in the sense that new rules for the single market are designed and applied across the entire EEA area. New subject areas can be introduced, and old ones can be taken out. When the EU has enlarged to include new member states, the agreement has been renegotiated. This has typically resulted in the EFTA countries paying more for market access and financially helping to support the poorest countries in the EU in the East and South. As outlined in the almost 1000 page Government report, “Europautredningen”, in 2011, Norway must also deal with new policy areas outside the EEA such as choosing to be in the border-free Schengen area. The EEA states have concluded more than 15 agreements other than the EEA since 1994, and taken some 8000 legal acts all together from the EU.

EU or EEA?

For many of the initial EEA signatories in the early 1990s, it became evident that the EEA agreement would not be satisfactory: they regarded it as a stepping-stone to full EU membership, rather than as a permanent alternative. Finland, Sweden, and Austria joined the EU as full members in 1994, while Switzerland chose neither to become an EU member nor to sign the EEA agreement. Only Liechtenstein, Iceland, and Norway remained. In view of the passive character of the EEA agreement, for Norway and the other two countries this means they have a position where its influence on EU policy is more limited compared to that of member states. No other countries have joined the EEA since 1995.

Politically, the EEA Agreement across its economic, legal and institutional aspects has never really become settled. EFTA lost much of its identity with the signing of the EEA agreement. The EU itself has evolved much faster both in depth and breadth, in and outside EEA jurisdiction, than expected when the agreement was drafted. In addition, the agreement covers today substantially fewer countries than the ones that negotiated it. The reduction in the number of EFTA countries and the large expansion in the number of EU members from Central and Eastern Europe have made the EEA-agreement, in absolute and relative terms, a minor part of the EU's broader European agenda.

Moreover, the EU itself has changed with the introduction of the monetary union and new competences in foreign, security, and defence policy, justice and home affairs. The EEA forum is not always the right place for dealing with the new policy areas, with separate roles for the Commission, Parliament, and the Council. Often, direct contact with member states is necessary.

Norway as a rule-taker of EU laws

The EEA agreement has contributed to changing roles and positions of domestic Norwegian ministries. Within the government, the Ministry of Foreign Affairs (MFA) has become more important, which was one reason for appointing a special minister for EU/EEA affairs within the MFA in the cabinet in 2013. In areas where the EEA agreement applies, the Ministry of Justice and its sub-departments have gone from being domestic law-makers to external law-takers, and in relevant cases may override what single ministries otherwise would have done. Before the EEA agreement came into effect, a ministry would rather ask the Ministry of Justice to make laws that supported its policy objectives. The process of integration with the EU, together with global trends, also strengthened a more neo-liberal approach.

The key difference between the EEA-agreement and full EU membership is that the EFTA countries do not participate in final EU decision-making or in the development of the EU in other areas, unless so agreed. If Norway were to become a full EU member, it could influence EU policy. Equally, if Norway were to enter into a trade agreement similar to that of Switzerland, it could try more explicitly to negotiate special arrangements. Both full EU membership and a trade agreement similar to the Swiss model would appear to offer better political frameworks for Norway and give it more room for political manoeuvring and influence than the EEA agreement.

Politically the EEA agreement is not democratic as decisions are taken outside of Norway. Beyond lobbying, Norway has little general political influence over EU rules and regulations both because of its non-membership and its small-state status. Nevertheless, the EEA agreement has served many Norwegian economic interests. Most of the industry favours it for the economic benefits, while those on the political centre-left are more concerned about its non-democratic structure and the neo-liberal trade principles of the EU's single market.

Today, there is little prospect of a change in the status quo for Norway – it is likely to remain in the EEA for now. But the arguments and debates will continue over the democratic and policy price that is paid for that choice.

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