

**Chapter in the book, *Negotiating Europe: Foundations, Dynamics, Challenges*.
(In Anamaria Dutceac Segeshten et al.) Centre for European studies. Lund
University. January 2007.**

Deeply inside the European project

By Eirikur Bergmann. Associate professor, Bifrost University, Iceland.

Abstract

Iceland's entrance into the European Economic Area (EEA) in 1994 resulted in it becoming an 'associate' member of the EU. Despite the fact that Iceland is officially outside the European Union, it nonetheless continues, through the EEA and later also the Schengen agreement, to participate actively in the European project. In fact Iceland is in some areas deeper involved in the European integration process than many of its official members. But it can also be concluded that the EEA is not adjusting well to the rapid development within the EU, for example resulting in three new treaties and two rounds of enlargement in just one decade. As can it be maintained that the significance of the agreement is dwindling and that it can no longer sustain a successful or satisfactory partnership between the EFTA states and the EU. These developments have shifted Iceland and the other EFTA states into the sidelines of the European collaboration.

Introduction

Despite the fact that Iceland is officially outside the European Union, it nonetheless continues to participate actively in the European project. Iceland is already deeply involved in the European integration process and this has directly influenced the development of the Icelandic society. The Icelandic government is for example faced with the daunting prospect of implementing as good as all EU legislation that falls within the EU internal market. Before we can understand and explore Iceland's situation within the European project more closely it is necessary to explain the

differing paths the Nordic states have chosen to take in the European integration process.

Differing paths of integration

The Nordic countries have continued to be amongst those who have shown the most reluctance towards the European integration process, but at the same time all of them have shown a keen interest in an ongoing close relationship with Europe, albeit in varying forms. Cristine Ingebritsen, a professor at Washington University in Seattle (USA), has studied the differing approaches adopted by the Nordic countries regarding the European integration process.¹ She points out that the Nordic countries have traditionally enjoyed smaller, more open economic systems, where the emphasis has been placed on an extensive welfare system and have therefore preferred to remain outside the supra-national cooperation in mainland Europe. The conclusion of the cold war, combined with the expansion and deepening of the European Union has however forced them to re-consider their position and acknowledge that they must take a more active part in the European integration process. It is interesting to note however, that each state has chosen varying ways of association with Europe.

Denmark chose to leave EFTA and immediately join ranks with the European Union² already in 1973. After the cold war, Sweden and Finland also left EFTA and joined the EU with Norway choosing to refuse membership for the second time in a popular referendum. The EFTA members had previously negotiated a close collaboration with the European Union through the European Economic Area agreement (EES), which came in to force in the beginning of 1994. The five Nordics are therefore split when it come to participation in the European project. Denmark, Sweden and Finland are full members of the EU while Iceland and Norway remain outside, maintaining their connection to Europe through the EEA and the Schengen border co-operations agreement.

To complicate the picture even further, Finland has demonstrated the will to join the inner core of the EU states and is the only Nordic country that has introduced the Euro, the EU states common currency. Denmark has remained defiant in regard to

¹ Cristine Ingebritsen (1998).

² The term European Union is in this paper used to cover the EU today and all of its previous treaties since the creation of the Coal and steel community in 1952

the continuing changes within the EU and refused both the Maastricht Treaty and the introduction of the Euro, resulting in many exemptions. Sweden also voted to refuse the Euro. Iceland remains however the only Nordic state never to have applied for EU membership and continues to voice strong Euroscepticism.

This paper will not address the reasoning behind the Icelandic government's refusal to apply for membership but will attempt to realistically outline just how involved Iceland has become with the European Union, through the EEA and the Schengen agreements.

The Europeanization of Iceland

The EEA agreement came in to force at January 1st 1994. Since that time there have been various shifts within the EU and the environment surrounding the EEA has therefore changed dramatically. The historical enlargement of the EU to include ten new member states has marked a new beginning in European state collaboration. This would therefore be an appropriate time to analyse these developments with hindsight and assess Iceland's ongoing role therein.

It could be said that the implementation of the EEA agreement has resulted in the active 'Europeanization' of Icelandic society and that the economic environment has become similar to that of the European mainland. Through the EEA Iceland is a part of the EU internal market, which can be said to be the core of European cooperation and in practical terms therefore acts as an associate member to the EU. The EEA created the single largest common market in the world, which now counts approximately 450 million inhabitants in 28 European states.

It could also be argued that the Europeanization of Iceland began much earlier, that is when it joined EFTA in 1970. The Icelandic economy rapidly adapted to the European market and saw the benefits immediately, with the lowering of prices on imported goods and easier access to European consumers, for Icelandic exports.

Consequently Icelandic industry felt the effects of increased competition from European manufacturers. EFTA was attempting to encourage free trade in industry between its members and hoped to promote free trade in all of Western Europe. There were attempts to terminate import limitations, import tax and any other restrictions affecting trade. Each EFTA member reserved the right to complete freedom in regard

to trade agreements with third countries, adhering only to regulations stipulated by GATT and the World Trade Organisation.

In 1972, Iceland followed the path of the other EFTA members by signing a free trade agreement between themselves and the European Union, which increased trade in goods and positively influenced business relations between Iceland and the EU members. The cooperation went from strength to strength and spilled over into other areas such as environmental issues, transport and research, to mention but a few. It also resulted in the quadrupling of business transactions between EU and the EFTA states.³ The agreement however, was only pertinent to a restricted area of business between Iceland and the EU members.

Aims of the EEA

The main aim of the EEA agreement is to ensure a complete single market that includes both EFTA and the EU member states. This has been done with the direct intention of increasing business and economic relations between the contract parties and to ensure the economic and social welfare of the whole economic area.⁴ The internal market of the EU was therefore expanded to include the EFTA members within the EEA. The agreement includes the four freedoms, that is; free flow of industrial goods, services, capital and the freedom to work and seek residency anywhere within the whole EEA area. Furthermore, the treaty encourages provisions in regard to collaboration on social, environmental, consumer and educational issues, concentrating also on equal rights, research and scientific advancement.⁵ The EEA treaty has not only had a multifold economic affect; it has also brought many social issues to the forefront, as a direct result of EU legal acts. Example can be taken within bankruptcy laws, defining liability in regard to outstanding wages have been altered, as have the rights of employees working across borders. Provisions promoting 'cohesion' such as those addressing working hours, minimum rest periods, working youths, pregnancy rights and child labour reflect some of the issues included in the scheme.⁶

³ Thomas Pedersen (1994). p. 27

⁴ Halldór Ásgrímsson (2000). p. 45

⁵ EES Meginmál: EES-samningsins & fleira efni er honum tengist. Með athugasemdum eftir Björn Friðfinnsson (1997).

⁶ Halldór Grönvold (2002).

The agreement has first and foremost concentrated on promoting the freedom of business and common rights. Its alternate and equally important role has been to ensure fair competition in business and to devise coherent protocols in regard to such issues as consumer rights, environmental protection, minimum welfare rights etc. The EFTA members within the EEA agreed to overtake and implement the EU fair trading regulations, addressing government subsidisation and government funding among other things.

What is not included in the EEA?

There are however various elements in the EU collaboration that fall outside the EEA. The agreement does not for example entitle the EFTA/EEA members to participate in the EU institutions, such as the European Council, the European Parliament or the European Court of Justice and provides only restricted access to the EU Commission. The EEA agreement also falls short of the Common agricultural policy and Regional cohesion policies. Iceland is furthermore and perhaps most importantly not a member of the Common fisheries policy. The EEA members, Iceland, Norway and Liechtenstein, do not participate in EUs trade policy, which consist of a joint customs register and a consolidated effort in aid and developmental issues. EU's trade agreements therefore do not apply to Iceland. Other areas of co-operations such as the monetary policy, taxation and foreign affairs are also out of the EEA framework. The same applies to internal matters, including judiciary affairs that fall outside the Schengen- and Dublin agreements.⁷

A vital step

The EEC treaty has undeniably proven its viability over the last few decades, generating unanimous recognition of its benefits to the Icelandic nation and acting as a vital injection to its economy. It has categorically stabilised the economy, leading to more freedom of choice and has modernised leadership methods. The treaty has in fact been Iceland's lifeline, in international relations. Iceland has enjoyed increased access to the EU market and its many cross-border co-operations programmes,

⁷ Eiríkur Bergmann Einarsson (2003).

including scientific, educational and cultural affairs, bringing with it extra capital and knowledge, much to the benefit of Icelandic society. Icelandic entrepreneurs have been given the opportunity to seek prosperity in the European market and Icelandic scientists have created stronger ties with international colleagues, to name but a few. Participation in the EU programmes has dramatically boosted turnover in the area of research and has strengthened relations between Icelandic businesses and institutions, and their European counterparts.⁸

Legislation by mail

The EEA agreement has certainly confirmed its benefits commercially but certain shortcomings have become apparent, during its development and implementation. Some problems were clear from the beginning but others have become discernible over time. The EEA agreement obligates Iceland to implement all the EU legal acts that apply to the internal market.⁹ Initially there were approximately 1.500 EU acts that Iceland, Norway and Lichtenstein were compelled to adhere to. These acts had increased to 4600 only a decade later along with increased pressure from European officials, demanding complete compliance.¹⁰ Some of these have since ceased to be relevant and others have been implemented by Iceland's own initiative. Comparing to Sweden, a full EU member, it becomes clear that Iceland has implemented over 80% of the necessary legal acts required for full EU membership.¹¹

As a result of this the EEA agreement calls for a constant revision and update of Icelandic law, extensively influencing the manner of Icelandic government. The initiative and final decision making on the implementation of law making is increasingly becoming under the domain of the European level and very few areas remain excluded. Certain fields such as the environmental and food hygiene are no longer under the control of democratically elected delegates in Iceland but under the authority of various foreign officials in Brussels.¹² EU members have the ability to influence decision making using various means, whereas Icelandic citizens are not afforded the same rights as non members. Decisions made within the EU are made by

⁸ Eiríkur Bergmann Einarsson (2003).

⁹ Baldur Þórhallson and Hjalti Þór Vigfússon (2004).

¹⁰ Eiríkur Bergmann Einarsson (2004).

¹¹ Eiríkur Bergmann Einarsson (2005).

¹² EFTA Bulletin (2002).

members and are built on a system of ‘comitology’, or consultation between various experts, politicians and parties of mutual interest. The Icelandic government has therefore surrendered part of its liberty in lawmaking over to the EU and has little or no chance of having any influence over future decisions.¹³ New regulations are simply received in the mail.

Passive Veto right

The EEA agreement assures EFTA members the formal right to veto, but it has become apparent that this is a diminished power, as any attempt to halt new laws passed by the EU, result in complete disarray and threaten the strength of the agreement. Under these circumstances it is the role of the EU to ascertain if the veto goes against the grain of the EU project. Should their final evaluation of the situation confirm such suspicions, they reserve the right to terminate cooperation with the agreement in that area. Should this be the case then it is likely that the EEA agreement would be forced to withdraw compliance to that particular field of cooperation. This would compromise the whole concept of the agreement, where the main focus has always been the unification of regulations everywhere in the internal market. This would lead to a ripple effect, eventually involving all EEA members. This particular circumstance has not yet occurred in the history of the agreement and would indeed be a direct threat to the collaboration, raising various doubts therein. The right to veto has never been exercised and the EEA and can be compared to an atomic bomb; excellent in theory but hopeless in practice. A chain reaction would be initiated by it and the result would be extremely uncertain.

Changes within the EU

The EEA treaty affects most areas of the community and its design can often lead to a complicated network of communications. The treaty is constantly being moulded and developed, in an attempt to emulate the regulation changes within the internal market of the EU. It does not however, follow the operational and institutional changes that occur in the European Union. The gap between the EEA and the EU is therefore

¹³Diana Wallis (2002).

continually widening. The EEA has also failed to keep up with the various important changes that have occurred in the EU since its start date on January 1st 1994. The EEA treaty was built on the premise of the Rome treaty as it was in 1992 and has not been altered since negotiations came to a close that year. Since that time there have been three new treaties entered into by the EU; Maastricht in 1993, Amsterdam in 1997 and Nice in 2000, all leading to numerous changes in operations and collaboration between the EU member states, creating closer relationships therein and increased cooperation in various new projects. These changes are not mirrored in the EEA.

One of the resulting affect of these changes has been the diminished possibility the EFTA's to influence EU's decision making. The EU Commission should, according to the EEA agreement, ensure that the EFTA states are heard within the EU, but its power has been diminished since the EEA treaty came into force. The European Parliament and the Council have enjoyed growing power and this has made it increasingly difficult for the Commission to present issues pertaining to the EEA as they are in a constant battle to maintain and protect their own position on their own vital issues.¹⁴ This has exacerbated the situation and narrowed the influence that the EFTA/EEA can have on European legislation and yet all the EEA members are bound by it.

A Smaller EFTA

The EEA treaty was initially drawn up by two groups, equal in stature and was built on the premise of providing mutual economic benefits. This included twelve EU states and six EFTA states, with approximately 30 million inhabitants which at that time were the largest market for the EU. It was the accedence of the three largest EFTA members (Austria, Finland and Sweden), only a year after the initiation of the EEA agreement, that resulted in the compromised power of EFTA and this has made it increasingly difficult for Iceland to ensure that its proposals are heard. The accedence of ten new states into the EU in May 2004 has further aggravated the situation, making it even more problematic for Iceland to be heard. The original

¹⁴ Eiríkur Bergmann Einarsson (2003). p. 105

agreement dictates what influence EFTA should have, but in practice its political power has been weakened tremendously.

Originally the EU showed goodwill towards the collaboration with the EEA by choosing to concentrate more on the spirit of the treaty, rather than strictly interpreting and adhering to its regulations. This way the EEA enjoyed more influence in regard to any decision making that affected the internal market. Iceland had direct access to many of the committees involved in the preparation of regulations for the internal market of the EU. Recently the EU has chosen wittingly or unwittingly, to change direction, choosing to interpret the initial treaty in its literal sense. This has led to the exclusion of Iceland, Norway and Liechtenstein in any preparations relating to regulations and they now have little opportunity to voice their concerns or to ensure the protection of their own interests.¹⁵

An Accident Waiting to Happen

As a consequence of these new found circumstances, the EEA and the EU now clash on an increasingly regular basis. The eastern enlargement for example almost resulted in the collapse of the EEA agreement and this could have meant dire consequences for the Icelandic economy. Negotiations on the simultaneous enlargement of the EEA did not come to a close until the 1st of April, 2004, only a month before the enlargement of the EU was to take place. The beginning of 2002 was met with fresh demands from the Commission, insisting that Iceland and Norway extensively increase their funding towards the EU's developmental fund by 27 fold. Iceland found these demands unacceptable and the situation remained unstable for a short time. Eventually an agreement was reached, on the condition that Norway would increase their contribution tenfold and that Iceland should increase theirs fivefold.¹⁶ The 'Aftenposten' newspaper in Norway predicted that the increase would mean that Iceland and Norway would eventually be contributing more to the enlargement than the EU members themselves.¹⁷

Another clash was instigated by Poland's refusal to come to an agreement on the taxation on herring from Iceland and Norway. This issue was of the utmost

¹⁵ Eiríkur Bergmann Einarsson (2003). p. 102

¹⁶ Eiríkur Bergmann Einarsson (2003). p. 112

¹⁷ Aftenposten (2004).

importance as past free trade agreements with Eastern Europe were to discontinue with the enlargement of the EU. The eventual conclusion to the matter came at a crucial time. It was therefore not surprising that many despaired at the future of the EEA agreement when the Prince of Liechtenstein declined to sign the treaty, allowing the expansion of the EEA. His refusal came as a result of ongoing, unrelated land disputes in the Czech Republic but thankfully, this too was eventually resolved.

The EU Loses Interest

The situation has been further exacerbated by the EEA's diminished representation within the EU leadership and it would seem that although they must respect their obligations to the cooperation, they have generally lost interest in the collaboration. Icelandic officials, interviewed for this paper, who are working within the field of the agreement are convinced that the EEA interests are of increasingly less importance to the EU. The general consensus of the EU has been that the EEA agreement is an outdated and temporary nuisance that has been tolerated too long. It is even thought that the EU intends to consciously but unofficially ensure the demise of the EEA agreement. It has even been implied, by EU officials that the demands for extra funding towards the developmental fund, were done with the precise intention of toppling the EEA agreement.¹⁸

The lack of interest shown by the EU towards the agreement has become obvious with the deliberate disregard for the EFTA/EEA members in new EU legislation.¹⁹ There have been many instances where the EU have not endeavoured to seek consultation on new legislation, which they are in fact obligated to do according to article 99 of the agreement. The article clearly stipulates that EFTA experts are to be consulted in the same manner as experts within the EU.

An associate member of the EU

In summary of what has already been said, we can conclude that Iceland's entrance into the EEA resulted in it becoming an 'associate' member of the EU. The agreement meant that Iceland became a full participant in the internal market of the EU; the four

¹⁸ Eiríkur Bergmann Einarsson (2003). p. 112

¹⁹ Halldór Ásgrímsson (2000).

freedoms of people, money, services and goods were expanded to include the EFTA members within EEA. A co-operation was also created in matters outside the internal market, including environmental, research and educational issues. The EFTA states within the EEA also agreed to implement nearly all regulations stipulated by the EU in regard to the internal market and in doing so relinquished their power, making the EU the competent authority in such matters. Iceland also participates fully in the EU Schengen Area and the Dublin agreement, as a result of special negotiations made with themselves and Norway. In view of their allegiance to both the Schengen area and the EEA, Iceland can now consider itself an active participant in the European project. Iceland has in fact shown more compliance to various areas of the EU than many of its official members. Britain for example, has chosen to remain outside the Schengen area, whilst Iceland has chosen to take part. The matter of the Euro is a perfect example of this, as the Maastricht treaty clearly dictates the full cooperation of all member states in the implementation of a unified currency. The British remain adamant in their use of Sterling and the Swedish have chosen to carry on using the Kroner. It could be said that this indicates a lack of clarity in regard to the differences between those who stand inside and outside the EU and how they choose to interpret their obligations.

It can also be concluded that the EEA is not adjusting well to the altered circumstances of the EU and that the increasing demand for democracy, transparency and harmonisation are creating an environment where the EEA cannot continue to maintain a strong position. In lieu of the above it can be maintained that the significance of the agreement is dwindling and that it can no longer sustain a successful or satisfactory partnership between itself and the EU. These developments have shifted the EEA states into the sidelines of the European collaboration.

References

- Aftenposten (.2004) *Norge betaler mest for utvidelsen*. Oslo February 5th 2004.
- Baldur Þórhallsson and Hjalti Þór Vignisson (1994). *A controversial step. Membership of the EEA*. In Iceland and European Integration, on the edge. Baldur Þórhallsson. Routledge.
- Björn Friðfinnsson (Ed) (1997). *EES – Meginmál EES samningsins & fleira efni er honum tengist*. University Press - University of Iceland.. Reykjavík

Cristine Ingebritsen (1998). *The nordic states and European unity*. Cornell University Press.

Dianna Wallis (2002). *Forgotten Enlargement, future EU relations with Iceland, Norway and Switserland*. Centre for Reform. London.

Eiríkur Bergmann Einarsson. (2003) *Evrópusamruninn og Ísland. Leiðavísir um samrunaþróun Evrópu og stöðu Íslands í evrópsku samstarfi*. (e. Europeanization and Iceland.) University Press - University of Iceland. Reykjavík.

Eiríkur Bergmann Einarsson (2004). Lecture in Reykjavik City hall on may 5 2004.

Eiríkur Bergmann Einarsson (2005). *Á kafí í Evrópusamrunanum*. Rannsóknir í Félagsvísindum VI. (In Úlfar Hauksson, ritstj.) University Press - University of Iceland..

EFTA Bulletin (2002). *Nr. 1*. EFTA secretariat. Brussels.

Halldór Ásgrímssonar (2000). *Report of the the Icelandic foreign minister on Icelands place in the European integration process*. Ministry for foreign affaris. Reykjavík.

Halldór Grönvold (2002). Lecture at the Icelandic labour union on 26. september 2002.

Thomas Pedersen (1994). *European Union and the EFTA Countries*. Pinter Publishers. London.

Valgerður Bjarnadóttir. (2001) *Fullveldið (e. sovereignty)* (In Eiríkur Bergmann Einarsson, Ísland í Evrópu. (e. Iceland in Europe.) Samfylkingin. Reykjavík.