

Official Norwegian Reports NOU 2012:2 Chapter 1

Outside and Inside

Norway's agreements with the European Union



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Report by the EEA Review Committee, appointed on 7 January 2010
Submitted to the Ministry of Foreign Affairs on 17 January 2012

Introduction

On 7 January 2010, the Norwegian Government appointed a broad-based independent committee to undertake a thorough, research-based review of the EEA Agreement.

The mandate of the Committee called for a comprehensive and thorough review of the political, legal, administrative, economic and other social consequences of the EEA Agreement. Moreover, the Committee was asked to review Norway's experience of the Schengen Agreement and other cooperation and association arrangements between Norway and the European Union.

The Committee's work was presented in an official report on 17 January 2012. The report will be subject to public consultation and will form part of the basis for a report (white paper) to the Norwegian parliament (Storting).

The 900-page report is extensive, and covers all aspects of Norway's relations with the EU. The following is an English translation of the first chapter. It gives a brief overview of the Committee's main findings and presents the main contents of the different parts and chapters. The complete report is available only in Norwegian. There are plans to translate additional excerpts of the report into English at a later stage.

The EEA Review Committee consisted of the following members:

- Fredrik Sejersted (Chair), Professor of Law, Head of the Centre for European Law, University of Oslo
- Liv Monica Bargem Stubholt (Deputy Chair), Investment Director, Aker ASA, Oslo
- Frank Aarebrot, Professor, Department of Comparative Politics, University of Bergen
- Lise Rye, Associate Professor, Department of History and Classical Studies, Norwegian University of Science and Technology (NTNU), Trondheim
- Dag Seierstad, expert on EU/EEA matters, Lillehammer
- Helene Sjørnsen, Research Professor, Centre for European Studies (ARENA), University of Oslo
- Fredrik Bøckman Finstad, lawyer at the law firm Thommessen AS, Oslo
- Kate Hansen Bundt, Secretary General of the Norwegian Atlantic Committee, Akershus
- Karen Helene Ulltveit-Moe, Professor, Department of Economics, University of Oslo
- Jonas Tallberg, Professor, Department of Political Science, Stockholm University, Sweden
- Jon Erik Dølvik, head of research at the research foundation Fafo, Oslo
- Peter Arbo, Associate Professor, Norwegian College of Fishery Science, Tromsø

The secretariat of the Committee was chaired by Ulf Sverdrup, Professor at the Norwegian School of Management (BI) and Senior Researcher at ARENA, University of Oslo.

Chapter 1

Main message and overview

1.1 Main message

Both Europe as a whole and the EU are currently in a process of rapid change. The situation is characterised by financial turbulence and political and social unrest. Norway is not a member of the EU, but is affected both directly and indirectly by developments in Europe. The level of stability and welfare in our neighbouring European countries has considerable influence on Norwegian politics, the economy and social development. By the time this report has been completed, at the beginning of 2012, the EU will be in a critical phase, with great uncertainty about its future course. While some believe the union is about to fall apart, others believe that it will be reinforced and intensified. At present, it is not possible to say who is right. But whichever way it goes, Norway will be affected.

In the spring of 2012, it will be 20 years since the Norwegian Foreign Minister at the time, Bjørn Tore Godal, signed the EEA Agreement on behalf of Norway in the Portuguese city Porto on 2 May 1992. Then too, Europe was in a period of transition, with the fall of the Berlin Wall, the establishment of the internal market, and the prospect of European unification. The EEA Agreement was a milestone. Under the Agreement, Norway became linked to the European integration process in a new way. Since then, Norway has become increasingly closely tied to the EU. Cooperation has extended to more and more areas, and today Norway's agreements with the EU affect domestic law and politics and the daily lives and operations of individual citizens and companies in numerous ways.

It is not the purpose of this report to speculate about future developments in Europe and the EU or alternative forms for Norway's association with the EU. It describes and analyses Norway's existing agreements with the EU today, and looks at how they have developed from 1992 to the end of 2011. It shows the scope of the various processes, recounts important events, and identifies and anal-

yses the key drivers of developments. The general effects on Norway's economy, politics and society are also described and examined.

All in all, it describes the extensive Europeanisation of Norway over the last 20 years.

In these times of uncertainty and change, it is particularly important to be aware of and understand the form of association Norway already has with the EU, and the important ways in which European integration shapes and colours everyday life in Norway. No comprehensive analysis of the breadth of this process has previously been made. The aim of the report is to provide common ground for an informed and pragmatic debate on Norway's complex and complicated relations with the EU.

Today, Norway's relations with the EU are governed by a number of agreements. The largest and most important of these is the EEA Agreement, which at the time it was signed – in 1992 – was the most extensive and comprehensive agreement Norway had ever entered into. Since then, it has been further developed. And it has ended up affecting far more sectors of society than most people envisaged 20 years ago. In addition, Norway has entered into a number of other agreements with the EU over the years, for example on border controls, police cooperation, immigration, foreign, security and defence policy, regional policy, agriculture and fisheries. The list is a long one.

The Committee was commissioned to review all the agreements Norway has with the EU today. This has provided the framework for the Committee's work. Its objective has been to present a *comprehensive* picture of Norway's association with the EU, how it has developed over time, and the consequences for Norwegian society.

Foreign policy and domestic policy

Norway's relations with the EU have implications for both foreign policy and domestic policy. Firstly, Norway's agreements with the EU consti-

tute its largest and most important set of agreements relating to *foreign policy*. These agreements not only govern Norway's relations with the EU as a whole, but also with the 27 EU member states and the other two EFTA EEA states. Among these are nearly all the countries Norway has traditionally had close ties with, including all the other Nordic countries. As the EU member states have gradually handed over more authority to the EU and increasingly coordinated their actions at Community level, more and more of Norwegian foreign policy has been focused on relations with the EU as a whole.

Secondly, Norway's agreements with the EU affect *domestic policy* issues, and they do so to a greater extent than any of Norway's other international agreements. Although the original purpose of Norway's agreements with the EU is to regulate cross-border issues, these agreements have in practice had at least as much importance for domestic issues. They have implications for most sectors of society: the economy, business, the labour market and working conditions, welfare, health, regional policy, energy, environment, climate change, transport, research, education, food, agriculture, fisheries, alcohol policy, gender equality, consumer protection, civil emergency preparedness, border controls, immigration, police cooperation, security and defence policy, and much more.

All 17 ministries work with EU/EEA matters, and so do most of the subordinate agencies and all 429 municipalities, much of whose work deals with EEA-related matters. EU law has been incorporated to some extent into around 170 of a total of 600 Norwegian statutes and approximately 1 000 Norwegian regulations.

Norway's association with the EU has implications at all levels, from matters affecting daily life (vehicle inspections, the working environment, food quality) to major structural issues (the common labour market and the financial market), as well as the balance of power between the Storting (parliament), the Government and the courts, politicians and civil servants, the capital and the regions, employers and employees, etc.

In general, Norway's relations with the EU are shaped by the need to find common solutions to transborder challenges related to the economy and development, migration, technology, climate change and the environment, resource management, globalisation, peace, people-to-people contacts, etc. Some form of binding cooperation is required to respond to most of these challenges. The backdrop to our cooperation is a *range of com-*

mon values and interests between Norway and the 27 EU member states, bound together as we are by geographical, economic, political, cultural and many other factors.

The last 20 years have shown clearly that the Norwegian authorities neither can nor wish to isolate Norway from the increasingly close and binding integration processes in the EU.

The scope of the review

One of the aims of the report is to provide an overview of the scope of Norway's set of agreements with the EU today. Under these agreements, Norway has incorporated approximately three-quarters of all EU legislative acts into Norwegian legislation and has implemented them more effectively than many of the EU member states. At the same time, Norway is neither a member of the EU nor involved in the decision-making processes to any significant extent.

Today, Norway is far more closely associated with the EU than most people realise. This also applies to many of those who work with EU matters on a daily basis, such as politicians, civil servants, journalists and researchers. Those who are familiar with some aspects of Norway's relations with the EU tend not to be fully aware of others. Few, if any, have the full picture. For the members of the Committee too, this has been a voyage of discovery. Although we were familiar with the main features of Norway's relations with the EU beforehand, there have been many surprises about how extensive Norway's association with the EU actually is, and how many aspects of Norwegian society are affected – directly or indirectly.

Unusual form of association

Another key point is the fact that Norway has an unusual form of association with the EU. Normally states become members of an international organisation and adapt accordingly. Norway's relationship with the EU is based on association without membership. In an international context, this is an unusual form of cooperation, one that Norway shares with only two other small countries – Iceland and Liechtenstein. The four other EFTA states, which also took part in negotiating the EEA Agreement in 1990 – 92, soon chose a different path, and no other states have since followed Norway's example, although some have, on occasions, considered it. At the same time, Norway has not been particularly keen to open the door to other countries. In practice, Norway's

form of association with the EU has not been a model for others.

The duality of Norway's relations with the EU is reflected in the title of this report, *Outside and Inside*. You could say that Norway is both outside the EU and in it at the same time. Or you could say that Norway is neither completely outside nor fully inside. In principle, this is a difficult arrangement, with inherent structural tensions and problems. In practice, however, this form of association has worked, and far better than many expected. Experience so far is that the problems with the EEA, Schengen and other agreements are greater in principle than in practice.

Interests and values

Another important point is that the agreements with the EU have on the whole safeguarded Norwegian interests and values, i.e. the interests and values that the majority of the Storting at any given time have considered important for Norway, and that the Government has sought to promote.

In economic terms, 1992–2011 was a very good period for Norway. GDP for mainland Norway increased by 60 %, employment rose by around 25 %, and unemployment fell from nearly 6 % in 1993 to 2.4 % in 2011. Norwegians' purchasing power also increased substantially and the welfare state was further developed during this period.

There are many reasons for the upswing in the Norwegian economy, not least Norway's oil and gas activities, and its association with the EU is only one of many factors and difficult to measure in isolation. However, the EEA Agreement has provided a stable and relatively predictable framework for almost all aspects of Norway's economic relations with the EU member states, which together constitute Norway's most important economic partner by far.

The EU and the EU member states are our most important trading partners and account for most of the foreign investment in Norway. Approximately two-thirds of Norwegian private-sector investments are in the EU, and more than half the investments of the Government Pension Fund Global. Since the enlargement of the EU – and thereby of the EEA – in 2004, Norway has been one of the countries in the EU/EEA that has received most labour migrants from Eastern Europe per capita, and in 2009, 87 % of all labour migration to Norway was from the EU. This has

made an important contribution to Norway's economy and development.

The EEA Agreement has also had great significance for the business sector and for working life in Norway. It governs the domestic economy as much as cross-border issues, and throughout the period 1992–2011 it played a part in the general modernisation of Norway's economy and employment and working conditions.

A broad majority of the Storting have been of the view that, in addition to having economic effects, the EEA, Schengen and other agreements have safeguarded Norway's values and interests in a number of policy areas, including justice and home affairs policy (border controls, immigration, police cooperation) and foreign, security and defence policy.

During these 20 years, there have been some tensions and conflicts between EU/EEA rules and Norwegian traditions and restrictions, which have been challenged in a number of fields. However, given the large number of adaptations that have had to be made, there have been relatively few conflicts, and many of them were resolved in a way that has made it possible to continue to pursue Norwegian policy aims. In other cases, it has been necessary to make changes in order to harmonise Norwegian law with EU/EEA law. But on the whole, the Norwegian social model has been safeguarded and further developed throughout this period within the framework of the EU agreements in a way that has won the support of a broad majority of the Storting.

Democratic problems

The most problematic aspect of Norway's form of association with the EU is the fact that Norway is in practice bound to adopt EU policies and rules on a broad range of issues without being a member and without voting rights. This raises democratic problems. Norway is not represented in decision-making processes that have direct consequences for Norway, and neither do we have any significant influence on them. Moreover, our form of association with the EU dampens political engagement and debate in Norway and makes it difficult to monitor the Government and hold it accountable in its European policy.

This is not surprising; the democratic deficit is a well-known aspect of the EEA Agreement that has been there from the start. It is the price Norway pays for enjoying the benefits of European integration without being a member of the organisation that is driving these developments.

Although the democratic problems are as great today as they were 20 years ago – and have in fact increased – this is a situation that the broad political majority has been willing to accept and that many have become accustomed to. Norway's agreements with the EU are firmly established, both constitutionally and politically, through a large number of decisions of the Storting.

The EEA Agreement is often described as a political compromise in Norwegian European policy. And it is. Although it is not the first choice of any of the political parties (with the exception of the Christian Democratic Party and the Liberal Party), most of the other parties have it as second choice, and it has become clear that all the parties can in practice live with this form of association. It can also be described as a compromise between democratic considerations, on the one hand, and considerations of other values and interests, which a broad political majority deem to be safeguarded through close association with the EU, on the other.

Norway's agreements with the EU also have an impact on the balance of power within the country – between the legislative, executive and judicial branches, between politicians and civil servants, between central and local government, between employers and employees, etc. In general, the same trends can be seen here as in the EU member states, with minor variations due to special features of Norway's form of association.

Steady, stable development

While the period 1990–94 was one of great change in Norwegian European policy, with the development of the EEA Agreement and the subsequent contention over EU membership, the period since 1994 has been one of stability and predictability. Throughout this period, the trend has gone one way – towards increasingly close association – with no instances so far of reversal. Norway's relations with the EU have developed along several axes: through new agreements, further development of existing agreements, an increase in the number of countries with which we have agreements, and Norway's unilateral adaptation to the EU in areas beyond those governed by the agreements. The graphs show steadily rising curves. And developments within the EU are the main drivers. It is here we find the engine. Norway's agreements with the EU are not drawn up to develop new rules, but to incorporate existing EU rules and policies.

This has been a deliberate policy on Norway's part. Norway's cooperation with the EU has evolved because a broad political majority has wanted it to. While the question of Norwegian *membership* of the EU has been and still is one of the most contentious issues in Norwegian politics, there has been little dispute over Norway's *association* with the EU since 1994. The EEA Agreement and the other agreements have been a compromise that nearly all the political parties have been able to live with, and they have provided a basis for stable coalition governments. On the whole, successive Storting majorities and governments have in practice pursued the same European policy.

The Storting must consent to ratify all new EU agreements or legislative acts that entail significant new obligations for Norway. In the period 1992–2011, the Storting voted on a total of 287 such EU matters, 265 of which were unanimously agreed to, and most of the remaining 22 were agreed to by a broad majority. There have been some controversial EU/EEA matters over the years, but there have been few disputes with the EU given the extent of our adaptation to the EU, and these disputes have not damaged our overall relations. Of the more than 6 000 new EU legislative acts that have been incorporated into the EEA Agreement, the use of our right to enter a reservation has only been proposed in connection with 17, and so far we have not entered a reservation in practice, although the first case may be on the horizon.

Lack of knowledge and debate

A key factor in any sustainable democracy is the existence of «open and enlightened public discourse», as set out in Article 100 of the Norwegian Constitution. The Norwegian debate on Europe clearly falls short in this respect. While the public debate on the EEA and the EU (1990–94) and Schengen (1996–99) was extensive, engaged and informed, the same cannot be said for the debate on European policy and our association with the EU from the end of 1994 to the present day. This has been the subject of little debate.

The lack of debate on Europe is not an exclusively Norwegian problem, but it poses a particular challenge for Norway for two reasons. Firstly, there are aspects of Norway's form of association with the EU that mask the true nature of our relations, and this has dampened political engagement and public debate. Secondly, the continued disagreement about EU membership has a similar

effect. In consequence, the political parties are cautious about raising critical questions about EU/EEA matters, media coverage is limited, and there is little knowledge of and little public debate on the scope and nature of Norway's adaptation to the EU. The textbooks are virtually silent on the issue.

We can see a paradox in the period 1994–2011: while all the curves for the actual extent of Norway's association with the EU have been steadily rising, the political and public debate, media coverage and knowledge of this area have not increased and in some areas have decreased. There are few areas of Norwegian democracy today where so many know so little about so much as is the case with Norwegian European policy.

Resilience and vulnerability

When the EEA Agreement was signed in May 1992, there were few who thought it would shape Norway's relations with the EU for the next 20 years. But it has done just that. So it can be said that the structure of the EEA Agreement, and subsequently that of the Schengen and other agreements, has proved to be robust. While the EU has at times experienced major changes and considerable ups and downs, Norway's form of association has turned out to be surprisingly stable and flexible.

At the same time, it is a vulnerable structure. Norway's current form of association is contingent on two equally vital factors. Firstly, it is underpinned by a compromise reached by the political parties in Norway. For a political compromise, it has already lasted a very long time, and there are no strong indications that it is at risk. At times, however, there are signs of strain and disension. A new, fundamental debate on our relations with the EU could result in the present model being given renewed authority and legitimacy, but it could also entail a loss of support.

Secondly, Norway's current form of association with the EU depends on external circumstances that are largely beyond Norway's control. Many people have come to view the EEA Agreement as a «Norwegian» agreement, but there are after all 29 other EEA countries – the 27 EU member states and the two other EFTA EEA countries (Iceland and Liechtenstein). The Agreement will at all times depend on developments in the EU, and although both the EU as a whole and the individual EU member states seem to be satisfied with it, a number of developments are creating new problems and challenges for Norway's form of

association. The EU has announced that it too will review its experience of the EEA, and its relations with third party countries are also being discussed in more general terms. Moreover, Iceland has applied for EU membership, and if this goes through, the whole EEA Agreement may have to be renegotiated. Meanwhile, there are indications that other countries could be interested in joining the EEA, but that, too, could affect Norway's position and interests.

The vulnerability of Norway's form of association with the EU applies in particular to the framework – the institutions, procedures, etc. There are constant institutional tensions due to the fact that the EU is developing while the framework for the EEA is more static. The EEA was originally designed for seven EFTA countries, and since 1995 it has only applied to the three smallest of them.

The underlying substance is probably far less vulnerable. In fact, most European countries have been through far-reaching integration processes in the past few decades that have affected most areas of society. The economies of the European countries are more closely interwoven than ever before, joint infrastructure has been built, an extensive common legal system has been developed, it has become easier to work, travel, do business and study across national borders, and ties have been forged at all levels of society. Norway takes part in these processes in its own special way, and for 20 years has followed the processes in the EU, one or two steps behind, and sometime a step to the side. And Norway will probably continue to do just that in the years to come, whether the trend is towards closer integration or follows another path.

Review and recommendations

The Committee was asked to review and examine Norway's current form of association with the EU, not to consider alternative models. In principle there are three conceivable forms of association with the EU: full membership, the current model, or a looser form of association. The Committee was not asked to consider these alternatives, and has therefore not done so.

This means that the Committee has focused solely on the current form of association in its analyses and assessments. Any strengths and weaknesses identified are within the framework of current agreements. In the few places where we put forward proposals for changes or adjustments, this is with a view to strengthening the current

form of association. We have sought to avoid taking a stand on whether the EU cooperation that Norway is part of functions well or poorly.

The Committee's mandate did not include making recommendations for revising or reforming the current form of association. Our main task therefore is to provide a research-based account and analysis of Norway's current form of association with the EU. Any question of changes will have to be dealt with in the subsequent political consideration of the report. As noted above, the Committee has, in the course of its work, identified aspects of Norway's association with the EU that could be improved within the framework of the current model. These are dealt with in a separate section in the last chapter of the report.

The Committee's work

The Committee spent two years on the review. Its mandate was extensive. Norway's relations with the EU today involve most sectors of society. In addition to giving an account of the substance and development of the agreements with the EU over a period of 20 years, the Committee was asked to describe and analyse «the political, legal, administrative, economic and other social consequences» of these agreements in Norway. Given the wording of the mandate, it is not unexpected that large parts of the report deal with the agreements' significance for Norwegian society, the economy, the labour market and working conditions, and democracy.

In carrying out its assignment, the Committee has, in addition to its own work, sought input and commissioned studies from external experts and institutions. The Committee has also held a large number of meetings, travelled extensively and interviewed various stakeholders in the EEA Agreement, in addition to six meetings with a broad-based reference group and a series of 10 open debates all over the country. The external reports have been published in a separate series, and webcasts of the debates can be downloaded from the Committee's website.

The scope of the report reflects the Committee's mandate. It is extensive but this was necessary in order to fulfil the assignment and in itself illustrates the breadth of Norway's association with the EU.

On the whole, the Committee was unanimous in its conclusions, which are based on a broad range of expertise. The Committee also agrees in general on the descriptions and analyses of the current situation and the specific assessments.

There will always be some differences in interpretation in such a comprehensive review that deals with so many different issues, but the Committee's approach has been that as long as the members agree on the general arguments and the conclusions, no note is made of any differences.

There has been disagreement in the Committee on the assessment of certain issues. In these cases, the Committee was generally divided into a large majority and a small minority (one to three members). This is primarily indicated in the concluding comments to the chapters concerned. In the chapters on topics where there was more general disagreement, this is noted at the beginning of the chapter.

1.2 Overview of the report

The report has four main parts and 28 chapters. Part I, «Main Features», consists of three chapters that give a brief introduction to the agreements governing Norway's relations with the EU and an account of the historical development of Norway's association with the EU.

Part II, «The Development and Functioning of Norway's Agreements with the EU», consists of eight chapters that deal with various aspects of the development of these agreements in the period 1992–2011 and examine the political, constitutional and administrative effects they have had.

Part III, «The Significance of the EU Agreements for Important Areas of Society», consists of 12 chapters that deal with the consequences of the agreements for all of the most important areas of Norwegian society that are affected to any degree.

Part IV, «Conclusion», consists of three chapters in which the Committee brings together the threads and presents its conclusions. Here the Committee also presents its concluding observations and makes recommendations for changes within the framework of the existing form of association.

The report is long, and few people will read it from cover to cover. It has therefore been structured in such a way that the various parts can be read separately as individual studies, according to the reader's particular interests. Those who are interested in the main message of the report are advised to start with Chapter 3 and then go to the final assessments in Chapters 26 and 27. Each of the chapters in Parts II and III begins with a section entitled «Main features» and ends with a sec-

tion entitled «Concluding comments». In the section «Main features», a summary of the chapter is provided, highlighting the main message. The section «Concluding comments» contains the Committee's assessments and observations. The reader will be able to get an idea of the main points set out in the report fairly easily by leafing through it and reading these sections.

Part I «Main Features»

The Committee's mandate and composition are presented in Chapter 2, «The mandate and work of the Committee». This chapter also includes an overview of the external studies that were commissioned for the report. Part of the Committee's mandate was to foster public debate during the period in which the review was being carried out, and the outcome of the Committee's series of debates and its meetings with the reference group are presented here.

Chapter 3, «Norway's agreements with the EU», provides a general overview of Norway's association with the EU and the most important questions this raises. In accordance with the mandate, the Committee has focused on describing and analysing three aspects of Norway's agreements with the EU: (i) the scope and substance of the agreements; (ii) developments and the drivers of these developments; and (iii) consequences for Norwegian policy and society. The chapter also gives an account of the Committee's methods.

The structure and functioning of the EEA Agreement can only be understood in a historical context. Chapter 4, «The historical development of Norway's association with the EU», gives an account of the development of relations between Norway and the EU from the 1950s to the conclusion of the EEA Agreement in 1992. It deals particularly with the processes that led up to the establishment of the European Economic Area and explains how the EEA Agreement came about.

Chapter 5, «Main features of the EEA Agreement and other agreements with the EU» gives a brief account of the main substance of these agreements. The purpose of the chapter is to give the reader an overview of the agreements and the areas they cover. It deals in particular with the EEA Agreement and the Schengen Agreement, but it also includes a brief presentation of the other agreements, e.g. on justice and home affairs and security and defence policy.

Part II «The Development and Functioning of Norway's Agreements with the EU»

Chapter 6, «The development of the agreements with the EU in the period 1992–2011», begins with a description of the various ways in which the development of Norway's relations with the EU is determined by developments in the EU. This is followed by an account of the procedures for incorporating new EU legislative acts into the EEA Agreement and a general analysis of the increase in the total number of acts involved. The chapter also discusses questions related to relevance, timeliness, reservation and exemption. The chapter primarily focuses on the development of and amendments to the EEA Agreement, but it also describes the development of the Schengen Agreement and the other agreements.

Chapter 7, «The implementation of EU/EEA law in Norwegian law», describes how Norwegian lawmakers implement EU legislative acts in Norwegian legislation, with a particular focus on the time used, techniques and freedom of action. It also gives an overview of Norwegian legislation that has been enacted or amended for the purpose of adaptation to the EU, and shows how large a portion of Norwegian legislation this applies to today. The last part of the chapter deals with questions concerning the scope and status of EU/EEA law and its impact on Norwegian law.

Chapter 8, «The role of the public administration» gives an account of the work done by the Norwegian public administration in connection with EU/EEA matters in the period 1992–2011. It shows how the distinction between foreign and domestic policy has been erased and describes how ministries, directorates, subordinate agencies and local government have been affected in various ways by matters relating to the EU/EEA. The Committee focuses particularly on questions concerning the organisation and coordination of the public administration's work in this area, and on various issues relating to transparency, the dissemination of information and competence in dealing with these matters.

Chapter 9, «Participation and influence», looks at the ways in which the Norwegian authorities and other Norwegian actors seek to influence and participate in EU decision-making processes. It focuses particularly on the aim shared by successive Norwegian governments to pursue an active European policy within the framework of the current form of association. An analysis is made of Norway's formal and informal access to EU institutions and processes. The chapter ends with an



Figure 1.1 Signing of agreements with the European Union

Photo: Scanpix, Mission of Norway to the European Union



Figure 1.2 Signing of agreements with the European Union (cont.)

During the past 20 years, Norway has signed numerous agreements with the European Union. These photos show a few of them. *Last page, clockwise from upper left:* Norwegian Ambassador to the EU Oda Sletnes signs the agreement extending the EEA Agreement to Romania and Bulgaria in March 2007; Minister of Foreign Affairs, Bjørn Tore Godal signs the EEA Agreement in May 1992; State Secretary Øystein Mæland signs the Schengen I Agreement in December 1996; Minister of Justice Knut Storberget signs the agreement on Norwegian participation in the Prüm cooperation in November 2009; Minister of Foreign Affairs Jan Petersen signs the agreement to enlarge the EEA to include the ten new EU member states in November 2003; Minister of Foreign Affairs Knut Vollebæk signs the Schengen II Agreement in May 1999. *This page, clockwise from upper left:* Armaments Director Morten Tiller of the Ministry of Defence signs an agreement with the European Defence Agency (EDA) on Norwegian association with the European Air Transport Fleet in November 2011; Director of Finance at KSAT Alf-Erik Røkenes signs an agreement on the operation of the EU's Galileo satellite ground station in Svalbard in May 2011; Norwegian Ambassador to the EU Oda Sletnes signs an agreement on further liberalisation of trade in agricultural products under Article 19 of the EEA Agreement in April 2011; Minister of Justice Knut Storberget signs an agreement on Norwegian participation in the comitology committees under the Schengen Agreement in September 2011; Norwegian Ambassador to the EU Oda Sletnes signs the agreement on the EEA and Norway Grants for 2009-2014, Norwegian Ambassador to the EU Oda Sletnes signs the agreement on Norwegian association with the Open Skies air transport agreement between the European Union and the United States in December 2009.

Photo: Scanpix, Mission of Norway to the European Union



Figure 1.3 Lobby nation

Many Norwegian ministers visit the EU and the European Commission. In the autumn of 2008, several members of the current Norwegian Government visited Brussels. From the left: Minister of Petroleum and Energy Terje Riis-Johansen; Minister of the Environment and International Development Erik Solheim; Minister of Transport and Communications Liv Signe Navarsete; Minister of Foreign Affairs Jonas Gahr Støre; Prime Minister Jens Stoltenberg; President of the European Commission Jose Manuel Barroso; Minister of Finance Kristin Halvorsen; European Commissioner for External Relations and European Neighbourhood Policy Benita Ferrero-Waldner.

Photo: Juha Roininen/EUP-Images

account of the activities of Norwegian government and non-government actors in Brussels.

Chapter 10, «Compliance and control», examines the control measures taken to ensure compliance with EU/EEA obligations in Norway. It begins with an account of the national measures taken to ensure compliance with EU/EEA obligations in the public administration and Norwegian courts in the period 1994–2011 and gives an account of the EU/EEA matters that were brought before Norwegian courts in this period. It also discusses the control exercised by the EFTA Surveillance Authority (ESA) and the EFTA Court. One of the questions dealt with here is whether these institutions adhere as stringently to EU legislation as the EU institutions themselves, or whether they are in some cases «more catholic than the Pope».

Chapter 11, «The Storting and European policy», deals with the parliamentary and constitutional framework for Norway's association with the EU, and discusses how the EU agreements

have affected the Storting's activities and position. The Committee focuses particularly on the question of the delegation of powers under the Constitution and how this has been dealt with in connection with the EEA and Schengen agreements and other agreements. The chapter also describes the procedure whereby the Storting gives its consent to Norway's undertaking new obligations vis-à-vis the EU, and how the Storting is regularly kept informed by the Government by means of special procedures for consultation on European matters both in the European Consultative Committee and in plenary. It describes the Storting's role as a legislative body in the implementation of EU/EEA law in Norwegian law, but also discusses how EU/EEA law has placed limitations on the Storting's own legislative role.

Chapter 12 deals with knowledge of the agreements with the EU and the political and public debate in Norway. The Committee discusses various aspects of the political debate on Norway's association with the EU, how the various political

parties view the EU/EEA, how the EEA Agreement functions as a political compromise, and how it affects competition between the political parties. An analysis is presented of Norwegians' attitudes to the agreements with the EU, based on an opinion poll commissioned by the Committee. The chapter also deals with various aspects of the knowledge base and opinion shaping factors, such as the media's coverage of European issues, the presentation of the EU/EEA in schools and research on European matters. The chapter ends with a brief discussion of the role of the EU and Europe in the debate on Norwegian identity.

In Chapter 13, «Other parties' views on Norway's agreements with the EU», the Committee has shifted its perspective to examine how Norway's form of association with the EU is perceived from the outside – by other parties and actors. For example, an account is given of the experience of the other EFTA EEA partners, Liechtenstein and Iceland. The chapter also discusses how the EU itself and certain individual EU member states view the agreements with Norway. It touches on the EU's relations with Switzerland and the European microstates, to which the EU is currently seeking to take a more coherent approach. In addition, it compares the EEA Agreement with other agreements between the EU and third countries, including countries in Eastern Europe and North Africa (Morocco).

Part III «The Significance of the EU Agreements for Important Areas of Society»

Chapter 14, «The economy and the business sector», gives an account of Norway's participation in the internal market and economic development in Norway since the EEA Agreement entered into force. It describes and analyses general features of the economic relations between Norway and the EU during this period and the impact on the Norwegian economy of Norway's association with the EU through the EEA Agreement. It focuses particularly on economic integration and interdependence. Other themes that are dealt with are the development and volume of foreign trade in goods and services, cross-border investment and labour migration between Norway and the EU.

Chapter 15, «Business policy», considers the four freedoms as a framework for Norwegian business policy. For the purpose of the report, business policy is defined as the official policy designed to promote economic activity in society and thus strengthen value creation, productivity, profitability and competitiveness in the business

sector. In particular the chapter examines how Norway's association with the EU through the EEA Agreement affects the Norwegian Government's business policy toolkit. Key questions raised are: To what degree does EU/EEA law limit the Norwegian authorities' freedom of action? How much freedom of action do they still have? And how can it best be utilised? The chapter gives an account of the EU/EEA rules on state aid, public procurement and competition, as well as EU/EEA competition policy.

Chapter 16, «The labour market and working conditions», deals with the consequences of the EU/EEA for the labour market and working conditions in Norway. The Committee examines the development of workers' rights in Norway under the EEA, and the impact of the EU/EEA on the system of collective agreements and the degree of organisation. The chapter focuses particularly on the scale and consequences of the dramatic increase in labour migration within the EU/EEA since 2004. It discusses the measures taken to adapt the Norwegian model to this situation and how it has led to new constellations of interests and new dividing lines. The consequences of the EU/EEA for the social partners and the balance of power in the labour market are also analysed, and Norway's participation in the EU social dimension is described.

Chapter 17, «Social welfare and health», deals with the importance of the EU agreements for Norwegian social welfare policy in a broad sense. The chapter begins with a discussion of how European integration affects national social welfare systems. It then examines the significance of EU legislation and cooperation for social security rights, health services, national alcohol policy, and gender equality and non-discrimination.

Chapter 18, «Regional policy», discusses the EEA Agreement as a framework for Norwegian regional policy. It focuses on how the rules on public procurement, state aid and the four freedoms affect rural areas in Norway. It also looks at how Norway's relationship with the EU has both encouraged Norwegian local authorities to cooperate (particularly through the Interreg programmes) and inspired national regional policy.

Chapter 19, «Energy, climate change and the environment», deals with the significance of the EU/EEA for Norwegian environmental and climate policy. In the section on energy, the Committee examines the impact relations with the EU and EU/EEA law have had on Norwegian petroleum activities and the power sector. In the section on climate change, an account is given of Norway's

alignment with EU climate policy, and particularly its participation in the EU emissions trading scheme. The last part of the chapter examines the significance of the EEA Agreement for Norwegian environmental law and environmental protection, and for Norway's freedom of action in its national environmental policy.

Chapter 20, «Other important areas of society», gives an account of developments in other key areas that are affected significantly by the EEA Agreement and the other agreements with the EU, such as transport, research and higher education, the financial market, civil emergency preparedness and crisis management, consumer protection, copyright law and statistics. It also deals briefly with a number of other areas where Norway's association with the EU has had an impact, such as tourism, the media, sport, culture, contract law, tax law, criminal law, etc.

In Chapter 21, «Food, agriculture and fisheries», the Committee reviews three areas that have been centre stage in the Norwegian EU debate and where our special form of association allows for important exemptions. Large parts of Norway's agriculture and fisheries policies fall outside the scope of the EEA Agreement, but Norway has agreements with the EU in both areas, and both are also indirectly affected by the EEA Agreement, e.g. because of labour immigration. Moreover, the agriculture sector and the fisheries sector are considerably affected by the EU rules on food safety and veterinary matters, which have been incorporated in their entirety into the EEA Agreement and apply in full to Norway

Chapter 22, «Police cooperation, border controls and immigration», deals with Norway's alignment with EU policy in the field of justice and home affairs. Norway is closely linked to EU policy and legislation in these areas through the Schengen Agreement and several other agreements. This chapter analyses the significance of these agreements for Norwegian policy in the field and identifies some of the trends and challenges that have arisen through Norway's cooperation in this area.

Chapter 23, «Foreign, security and defence policy», gives an account of Norway's agreements in this field and its ties with this area of EU cooperation. The Committee examines in particular the political dialogue between Norway and the EU, Norway's alignment with EU foreign policy statements and sanctions, and Norwegian contributions to rapid response forces and participation in the European Defence Agency. The chapter ends with an account of other aspects of Norwe-

gian foreign policy that are affected by Norway's association with the EU, such as its High North policy, cooperation in the field of satellite communications, and EFTA free trade agreements with third countries.

In Chapter 24, «Norway's financial contribution to the EU and individual EU member states», the Committee describes and examines Norway's payments to the EU. It focuses particularly on the EEA and Norway Grants, which are designed to reduce economic and social disparities in the European Economic Area, and Norway's contributions to EU cooperation programmes. The Committee also gives a brief account of Norway's other contributions, for example to various EFTA and EEA institutions, its participation in various agencies and the expenses and/or savings its association with the EU entails for the public administration. The chapter ends with a discussion of the total amount provided by Norway to the EU and how this has developed over time.

In Chapter 25, «The scope of Norway's association with the EU», the Committee discusses the scope of Norway's adaptation to EU rules and policies. It reviews a large number of the EU legislative acts that Norway has incorporated through the EEA Agreement. A more qualitative analysis is also made of the areas of EU cooperation in which Norway participates, and of the extent of this cooperation.

Part IV Conclusion

The final part of the report begins with Chapter 26, «The Europeanisation of Norway 1992–2011». This gives a summary of the conclusions regarding the significance of Norway's agreements with the EU in three main areas. The chapter begins with an analysis of the significance of Norway's association with the EU for Norwegian interests and values, for example for socio-economic development, the social model in a broad sense, the primary industries, development of our natural resources, and internal and external security. This is followed by an analysis of the consequences of the agreements for the balance of power in Norway, including the separation of powers at the highest level of government (the legislative, executive and judicial branches), between politicians and the civil service, between central, regional and municipal authorities, and between the social partners. Thirdly, an account is given of the consequences of Norway's association with the EU for Norwegian democracy.



Figure 1.4 Place Lux

Place Luxembourg, situated close to the European Parliament, is one of the favourite meeting places for people working with EU affairs in Brussels. It is also possible to find Norwegians among the crowds that gather here after office hours. Their home country is tied to the EU through the "EØS-avtalen" (the EEA Agreement - an agreement most people in Place Lux have never heard of).
Illustration: Per Elvestuen

In Chapter 27, «Outside and Inside – Norway’s European dilemma», the Committee analyses fundamental aspects of Norway’s form of association with the EU, the kind of model it is, and its main features. It examines how Norway’s association with the EU has evolved during the period 1992–2011 and discusses the dynamics and drivers of this process. This is followed by a description of the challenges posed by Norway’s form of association with the EU, including democratic, constitutional, political and administrative challenges, as well as the challenges posed by developments in the EU, EFTA and individual states.

In Chapter 28, «The way forward», the Committee focuses on the future development of Norway’s relations with the EU and discusses the sus-

tainability and vulnerability of the current form of association. The Committee then discusses whether there is a need for more coherent frameworks for Norway’s association with the EU, before concluding with a number of recommendations and proposals.

A number of annexes are included at the end of the report. These give overviews of Norway’s agreements with the EU, Norwegian legislation in which EU/EEA law has been implemented, Norwegian participation in EU programmes and agencies, debates on EU/EEA matters in the Storting, cases that have been brought before the EFTA Court, and EU/EEA-related cases that have been brought before Norwegian courts.

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