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II

(Acts whose publication is not obligatory)

EUROPEAN ECONOMIC AREA

EFTA COURT

RULES OF PROCEDURE OF THE EFTA COURT

Adopted on 4 January and 1 February 1994

(Only the English text is authentic)

THE EFTA COURT,

Having regard to the Agreement on the European Economic Area,

Having regard to the competences conferred on the Court by the Agreement between the EFTA States on the establishment of a Surveillance Authority and a Court of Justice,

Having regard to the approval given by the Governments of the EFTA States,

ADOPTS THE FOLLOWING RULES OF PROCEDURE:

INTERPRETATION

Article 1

In these Rules:

- (a) 'Agreement' means the Agreement between the EFTA States on the establishment of a Surveillance Authority and a Court of Justice, its Protocols and Annexes;
- (b) 'EFTA State' means a Member of the European Free Trade Association which is a Party to the Agreement and to the Agreement on the European Economic Area;

- (c) 'Statute' means Protocol 5 to the Agreement, on the Statute of the EFTA Court.

TITLE I

ORGANIZATION OF THE COURT

Chapter 1

JUDGES

Article 2

The term of office of a Judge shall begin on the date laid down in his instrument of appointment. In the absence of any provisions regarding the date, the term shall begin on the date of the instrument.

Article 3

1. Before taking up his duties, a Judge shall, in accordance with Article 2 of the Statute, at the first public sitting of the Court which he attends after his appointment, take the following oath:

'I swear that I will perform my duties impartially and conscientiously; I swear that I will preserve the secrecy of the deliberations of the EFTA Court.'

2. Immediately after taking the oath, a Judge shall, in accordance with Article 4 of the Statute, sign a declaration by which he solemnly undertakes that, both during and after his term of office, he will respect the obligations arising therefrom, and in particular the duty to behave with integrity and discretion as regards the acceptance, after he has ceased to hold office, of certain appointments or benefits.

Article 4

When the Court is called upon to decide whether a Judge no longer fulfils the requisite conditions or no longer meets the obligations arising from his office, the President shall invite the Judge concerned to make representations to the Court, in closed session and in the absence of the Registrar.

Article 5

Judges shall rank equally in precedence according to their seniority in office.

Where there is equal seniority in office, precedence shall be determined by age.

Retiring Judges who are reappointed shall retain their former precedence.

Chapter 2

PRESIDENCY OF THE COURT

Article 6

1. The Judges shall, immediately after the partial replacement provided for in Article 30 of the Agreement as adjusted by Article 7 of the Protocol adjusting the Agreement between the EFTA States on the establishment of a Surveillance Authority and a Court of Justice, elect one of their number as President of the Court for a term of three years.

2. If the office of the President of the Court falls vacant before the normal date of expiry thereof, the Court shall elect a successor for the remainder of the term.

3. The elections provided for in this Article shall be by secret ballot. If a Judge obtains an absolute majority he shall be elected. If no Judge obtains an absolute majority, a second ballot shall be held and the Judge obtaining the most votes shall be elected. Where two or more Judges obtain an equal number of votes the oldest of them shall be deemed elected.

Article 7

The President shall direct the judicial business and the administration of the Court; he shall preside at hearings and deliberations.

Article 8

1. As soon as an application initiating proceedings has been lodged, the President shall designate a Judge to act as Rapporteur.

2. The Court shall lay down criteria by which, as a rule, cases are to be assigned to Judges.

Article 9

When the President of the Court is absent or prevented from attending or when the office of President is vacant, the functions of President shall be exercised by a Judge according to the order of precedence laid down in Article 5.

Chapter 3

REGISTRY

Section 1

The Registrar and Assistant Registrars

Article 10

1. The Court shall appoint the Registrar. Two weeks before the date fixed for making the appointment, the President shall inform the Judges of the applications which have been made for the post.

2. An application shall be accompanied by full details of the candidate's age, nationality, university degrees, knowledge of any languages, present and past occupations and experience, if any, in judicial and international fields.

3. The appointment shall be made following the procedure laid down in Article 6 (3).

4. The Registrar shall be appointed for a term of six years. He may be reappointed.

5. The Registrar shall take the oath in accordance with Article 3.

6. The Registrar may be deprived of his office only if he no longer fulfils the requisite conditions or no longer meets the obligations arising from his office; the Court shall take its decision after giving the Registrar an opportunity to make representations.

7. If the office of Registrar falls vacant before the normal date of expiry of the term thereof, the Court shall appoint a new Registrar for a term of six years.

Article 11

The Court may, following the procedure laid down in respect of the Registrar, appoint one or more Assistant Registrars to assist the Registrar and to take his place in so far as the Instructions to the Registrar referred to in Article 13 allow.

Article 12

Where the Registrar and the Assistant Registrar are absent or prevented from attending or their posts are vacant, the President shall designate an official or other servant to carry out temporarily the duties of Registrar.

Article 13

Instructions to the Registrar shall be adopted by the Court acting on a proposal from the President.

Article 14

1. There shall be kept in the Registry, under the control of the Registrar, a register initialled by the President, in which all pleadings and supporting documents shall be entered in the order in which they are lodged.

2. When a document has been registered, the Registrar shall make a note to that effect on the original and, if a party so requests, on any copy submitted for the purpose.

3. Entries in the register and the notes provided for in the preceding paragraph shall be authentic.

4. Rules for keeping the register shall be prescribed by the Instructions to the Registrar referred to in Article 13.

5. Persons having an interest may consult the register at the Registry and may obtain copies or extracts on payment of a charge on a scale fixed by the Court on a proposal from the Registrar.

The parties to a case may on payment of the appropriate charge also obtain copies of pleadings and authenticated copies of judgments, advisory opinions and orders.

6. Notice shall be given in the EEA section of and the *EEA Supplement to the Official Journal of the European*

Communities of the date of registration of an application initiating proceedings, the names and addresses of the parties, the subject-matter of the proceedings, the form of order sought by the applicant and a summary of the pleas in law and of the main supporting arguments. Notice shall also be given in respect of a request for an advisory opinion.

Article 15

1. The Registrar shall be responsible, under the authority of the President, for the acceptance, transmission and custody of documents and for effecting service as provided for by these Rules.

2. The Registrar shall assist the Court, the President and the Judges in all their official functions.

Article 16

The Registrar shall have custody of the seals. He shall be responsible for the records and be in charge of the publications of the Court.

Article 17

Subject to Articles 4 and 23, the Registrar shall attend the sittings of the Court.

Section 2

Officials and other servants of the Court

Article 18

1. The officials and other servants of the Court shall be appointed in accordance with the provisions of the Staff Regulations for the EFTA Court.

2. Before taking up his duties, an official shall take the following oath before the President, in the presence of the Registrar:

'I swear that I will perform loyally, discreetly and conscientiously the duties assigned to me by the EFTA Court.'

Article 19

The organization of the Court shall be laid down, and may be modified, by the Court on a proposal from the Registrar.

Article 20

The Registrar shall be responsible, under the authority of the President, for the administration of the Court, its financial management and its accounts.

Chapter 4

THE WORKING OF THE COURT

Article 21

1. The dates and times of the sittings of the Court shall be fixed by the President.
2. The Court may choose to hold one or more sittings in a place other than that in which the Court has its seat.

Article 22

1. Where, by reason of a Judge being prevented from attending, there is an even number of Judges, one of the Judges other than the President shall abstain from taking part in the deliberations. In such cases one of the Judges shall abstain, each in his turn, according to the order of precedence set out in Article 5, starting from the most junior Judge.

2. If after the Court has been convened it is found that the quorum of three Judges has not been attained, the President shall adjourn the sitting until there is a quorum.

Article 23

1. The Court shall deliberate in closed session.
2. Only those Judges who were present at the oral proceedings may take part in the deliberations.
3. Every Judge taking part in the deliberations shall state his opinion and the reasons for it.
4. The conclusions reached by the majority of the Judges after final discussion shall determine the decision of the Court. Votes shall be cast in reverse order to the order of precedence laid down in Article 5.
5. Differences of view on the substance, wording or order of questions, or on the interpretation of the voting shall be settled by decision of the Court.
6. Where the deliberations of the Court concern questions of its own administration, the Registrar shall be present, unless the Court decides to the contrary.
7. Where the Court sits without the Registrar being present it shall, if necessary, instruct a Judge to draw up minutes. The minutes shall be signed by this Judge and by the President.

Article 24

1. Subject to any special decision of the Court, its vacations shall be as follows:

- from 18 December to 10 January,
- from the Sunday before Easter to the second Sunday after Easter,
- from 15 July to 15 September.

During the vacations, the functions of the President shall be exercised at the place where the Court has its seat either by the President himself, keeping in touch with the Registrar, or by a Judge invited by the President to take his place.

2. In a case of urgency, the President may convene the Judges during the vacations.

3. The Court shall observe the official holidays of the place where it has its seat.

4. The Court may, in proper circumstances, grant leave of absence to any Judge.

Chapter 5

LANGUAGES

Article 25

1. The language of the Court shall be English. This shall cover the whole procedure including deliberations, minutes and decisions of the Court.

2. English shall be used in the written and oral part of the procedure by the parties, the interveners and the EFTA States, the EFTA Surveillance Authority, the Community and the EC Commission, unless otherwise provided in these Rules.

3. Without prejudice to the provisions of Article 27, all supporting documents submitted to the Court shall be in English or be accompanied by a translation into English, unless the Court decides otherwise.

In the case of lengthy documents, translations may be confined to extracts. However, the Court may, of its own motion or at the request of a party, at any time call for a complete or fuller translation.

4. The Court may, if deemed necessary, at the request of a party or intervener other than an EFTA State, the EFTA Surveillance Authority, the Community or the EC Commission, allow this party or intervener to address and be addressed by the Court in an official language of an EFTA State or of the European Communities in the oral part of the procedure. The Registrar shall arrange for interpretation to and from English. Such a request shall be submitted at least two weeks in advance of the oral part of the procedure.

Article 26

Where a witness or expert states that he is unable adequately to express himself in English the Court may authorize him to give his evidence in another language. The Registrar shall arrange for interpretation to and from English. Such a request shall normally be submitted at least two weeks in advance of the oral part of the procedure.

Article 27

1. Where a request for an advisory opinion is referred to the Court in accordance with Article 34 of the Agreement, the requesting court or tribunal is entitled to make its request in the language in which the case is dealt with before that court or tribunal. The Registrar shall arrange for translation into English.

2. The requesting court or tribunal and the parties to the dispute before it may submit documents to the Court in the language in which the case is dealt with before that court or tribunal. Such documents shall be translated into English to the extent that it is found necessary by the Court. The Registrar shall arrange for the translation.

3. The Registrar shall arrange for translation of the report of the Judge-Rapporteur in order to make it available in English and in the language in which the case is dealt with before the requesting court or tribunal.

4. Parties to the dispute before the requesting court or tribunal are entitled orally to address and be addressed by the Court in the language in which the case is dealt with before that court or tribunal. The Registrar shall arrange for interpretation to and from English. A party wishing to use such a language shall inform the Registrar at least two weeks in advance of the oral part of the procedure.

5. The opinion of the Court shall be given in the language in which the request was made and in English. The opinion shall be authentic in these languages.

*Chapter 6***RIGHTS AND OBLIGATIONS OF AGENTS, ADVISERS AND LAWYERS***Article 28*

1. Agents representing an EFTA State, the EFTA Surveillance Authority, the Community or the EC Commission as well as advisers and lawyers, appearing before the Court or before any judicial authority to which the Court has addressed letters rogatory, shall enjoy immunity in respect of words spoken or written by them concerning the case or the parties.

2. Agents, advisers and lawyers shall enjoy the following further privileges and facilities:

- (a) papers and documents relating to the proceedings shall be exempt from both search and seizure; in the event of a dispute the customs officials or police may seal those papers and documents; they shall then be immediately forwarded to the Court for inspection in the presence of the Registrar and of the person concerned;
- (b) agents, advisers and lawyers shall be entitled to such allocation of foreign currency as may be necessary for the performance of their duties;
- (c) agents, advisers and lawyers shall be entitled to travel in the course of duty without hindrance.

Article 29

In order to qualify for the privileges, immunities and facilities specified in Article 28, persons entitled to them shall furnish proof of their status as follows:

- (a) agents shall produce an official document issued by the State or institution, which they represent. A copy of this document shall be forwarded without delay to the Registrar by the State or institution concerned;
- (b) advisers and lawyers shall produce a certificate signed by the Registrar. The validity of this certificate shall be limited to a specified period, which may be extended or curtailed according to the length of the proceedings.

Article 30

The privileges, immunities and facilities specified in Article 28 are granted exclusively in the interests of the proper conduct of proceedings.

The Court may waive the immunity where it considers that the proper conduct of proceedings will not be hindered thereby.

Article 31

1. Any adviser or lawyer whose conduct towards the Court, a Judge or the Registrar is incompatible with the dignity of the Court, or who uses his rights for purposes other than those for which they were granted, may at any time be excluded from the proceedings by an order of the Court; the person concerned shall be given an opportunity to defend himself.

The order shall have immediate effect.

2. Where an adviser or lawyer is excluded from the proceedings, the proceedings shall be suspended for a period fixed by the President in order to allow the party concerned to appoint another adviser or lawyer.

3. Decisions taken under this Article may be rescinded.

TITLE II

PROCEDURE

Chapter 1

WRITTEN PROCEDURE

Article 32

1. The original of every pleading must be signed by the party's agent or lawyer.

The original, accompanied by all Annexes referred to therein, shall be lodged together with five copies for the Court and a copy for every other party to the proceedings. Copies shall be certified by the party lodging them.

2. All pleadings shall bear a date. In the reckoning of time limits for taking steps in proceedings, only the date of lodgment at the Registry shall be taken into account.

3. To every pleading there shall be annexed a file containing the documents relied on in support of it, together with a schedule listing them.

4. Where in view of the length of a document only extracts from it are annexed to the pleading, the whole document or a full copy of it shall be lodged at the Registry.

5. Pleadings and other documents shall be lodged at the Registry within the official opening hours.

6. Without prejudice to the provisions in the preceding paragraphs of this Article, pleadings and other documents may, in urgent cases, be lodged at the Registry by telefax. In the reckoning of time limits for taking steps in proceedings, a telefax shall be deemed as validly lodged provided its reception is fully completed within the official opening hours on the last day of the time limit and to the extent that the original document and the copies referred to in paragraph 1 are delivered to the Registry within 7 days thereafter.

Article 33

1. An application of the kind referred to in Article 19 of the Statute shall state:

- (a) the name and address of the applicant;
- (b) the designation of the party against whom the application is made;
- (c) the subject-matter of the proceedings and a summary of the pleas in law on which the application is based;
- (d) the form of order sought by the applicant;
- (e) where appropriate, the nature of any evidence offered in support.

2. For the purpose of the proceedings, the application shall state an address for service in the place where the Court has its seat and the name of the person who is authorized and has expressed willingness to accept service.

If the application does not comply with these requirements, all service on the party concerned for the purpose of the proceedings shall be effected, for so long as the defect has not been cured, by registered letter addressed to the agent or lawyer of that party. By way of derogation from Article 75, service shall then be deemed to be duly effected by the lodging of the registered letter at a post office of the place where the Court has its seat.

3. The lawyer acting for a party must lodge at the Registry a certificate that he is entitled to practice before a court of a Contracting Party to the Agreement on the European Economic Area.

4. The application shall be accompanied, where appropriate, by the documents specified in Article 19 of the Statute.

5. An application made by a legal person governed by private law shall be accompanied by:

- (a) the instrument or instruments constituting or regulating that legal person or a recent extract from the register of companies, firms or associations or any other proof of its existence in law;
- (b) proof that the authority granted to the applicant's lawyer has been properly conferred on him by someone authorized for the purpose.

6. If an application does not comply with the requirements set out in paragraphs 3 to 5 of this Article, the Registrar shall prescribe a reasonable period within which the applicant is to comply with them whether by putting the application itself in order or by producing any of the abovementioned documents. If the applicant fails to put the application in order or to produce the required documents within the time prescribed, the Court shall decide whether the non-compliance with these conditions renders the application formally inadmissible.

Article 34

The application shall be served on the defendant. In a case where Article 33 (6) applies, service shall be effected as soon as the application has been put in order or the Court has declared it admissible notwithstanding the failure to observe the formal requirements set out in that Article.

Article 35

1. Within one month after service on him of the application, the defendant shall lodge a defence, stating:

- (a) the name and address of the defendant;
- (b) the arguments of fact and law relied on;
- (c) the form of order sought by the defendant;
- (d) the nature of any evidence offered by him.

The provisions of Article 33 (2) to (6) shall apply to the defence.

2. The time limit laid down in paragraph 1 of this Article may in exceptional circumstances be extended by the President on a reasoned application by the defendant.

Article 36

1. The application initiating the proceedings and the defence may be supplemented by a reply from the applicant and by a rejoinder from the defendant.

2. The President shall fix the time limits within which these pleadings are to be lodged.

Article 37

1. In reply or rejoinder a party may offer further evidence. The party must, however, give reasons for the delay in offering it.

2. No new plea in law may be introduced in the course of proceedings unless it is based on matters of law or of fact which come to light in the course of the procedure.

If in the course of the procedure one of the parties puts forward a new plea in law which is so based, the President may, even after the expiry of the normal procedural time limits, acting on a report of the Judge-Rapporteur, allow the other party time to answer on that plea.

The decision on the admissibility of the plea shall be reserved for the final judgment.

Article 38

At any stage of the proceedings the Court may prescribe any measure of organization of procedure or any measure of inquiry referred to in Articles 49 and 50 or order that a previous inquiry be repeated or expanded.

Article 39

The Court may, at any time, after giving the parties an opportunity to express their views, order that two or more cases concerning the same subject-matter shall, on account of the connection between them, be joined for the purposes of the written or oral procedure or of the final judgment. The cases may subsequently be disjoined.

Article 40

1. Without prejudice to the application of Article 38, after the rejoinder has been lodged the President shall fix a date on which the Judge-Rapporteur is to present his preliminary report to the Court. The report shall contain recommendations as to whether measures of organization of procedure or measures of inquiry should be undertaken.

The Court shall decide what action to take upon the recommendations of the Judge-Rapporteur.

The same procedure shall apply:

- (a) where no reply or no rejoinder has been lodged within the time limit fixed in accordance with Article 36 (2);
- (b) where the party concerned waives his right to lodge a reply or rejoinder.

2. Where the Court decides to open the oral procedure without undertaking measures of organization of procedure or ordering measures of inquiry, the President shall fix the opening date.

Article 41

1. Without prejudice to any measures of organization of procedure or measures of inquiry which may be prescribed at the stage of the oral procedure, where, during the written procedure, measures of organization of procedure or measures of inquiry have been instituted and completed, the President shall, subject to the provisions in paragraph 2 of this Article, fix the date for the opening of the oral procedure.

2. The Court may, acting on a report from the Judge-Rapporteur, with the express consent of the parties, decide to dispense with the oral procedure.

Chapter 2

ORAL PROCEDURE

Article 42

1. Subject to the priority of decisions provided for in Article 82, the Court shall deal with the cases before it in the order in which the preparatory inquiries in them have been completed. Where the preparatory inquiries in several cases are completed simultaneously, the order in which they are to be dealt with shall be determined by the dates of entry in the register of the applications initiating them respectively.

2. The President may in special circumstances order that a case be given priority over others.

The President may in special circumstances, after hearing the parties, either on his own initiative or at the request of one of the parties, defer a case to be dealt with at a later date. On a joint application by the parties the President may order that a case be deferred.

Article 43

1. The proceedings shall be opened and directed by the President, who shall be responsible for the proper conduct of the hearing.

2. The oral proceedings in cases heard in camera shall not be made public.

Article 44

The President may in the course of the hearing put questions to the agents, advisers or lawyers of the parties.

The other Judges may do likewise.

Article 45

A party may address the Court only through his agent, adviser or lawyer.

Article 46

The President shall declare the oral procedure closed at the end of the hearing.

Article 47

The Court may order the reopening of the oral procedure.

Article 48

1. The Registrar shall draw up minutes of every hearing.

2. The minutes shall contain the date and place of the hearing, the names of the Judges and the Registrar present, the reference to the case, the names of the parties, the names and descriptions of the parties' agents, advisers and lawyers, an indication of the documents lodged by the parties in the course of the hearing and the decisions of the Court or the President, given at the hearing.

3. The minutes shall be signed by the President and by the Registrar and shall constitute an official record.

4. The parties may inspect the minutes at the Registry and obtain copies at their own expense.

Chapter 3

MEASURES OF ORGANIZATION OF PROCEDURE AND MEASURES OF INQUIRY

Section 1

Measures of organization of procedure

Article 49

1. The purpose of measures of organization of procedure shall be to ensure that cases are prepared for hearing, procedures carried out and disputes resolved under the best possible conditions. They shall be prescribed by the Court.

2. Measures of organization of procedure shall, in particular, have as their purpose:

- (a) ensuring efficient conduct of the written and oral procedure and facilitating the taking of evidence;
- (b) determining the points on which the parties must present further argument or which call for measures of inquiry;
- (c) clarifying the forms of order sought by the parties, their pleas in law and arguments and the points at issue between them;
- (d) facilitating the amicable settlement of disputes.

3. Measures of organization of procedure may, in particular, consist of:

- (a) putting questions to the parties;

- (b) inviting the parties to make written or oral submissions on certain aspects of the proceedings;
- (c) asking the parties or third parties for information or particulars;
- (d) asking for documents or any papers relating to the case to be produced;
- (e) summoning the parties' agents, advisers, lawyers or the parties in person to meetings.

4. Each party may, at any stage of the procedure, propose the adoption or modification of measures of organization of procedure. In that case, the other parties shall be heard before those measures are prescribed.

Where the procedural circumstances so require, the Registrar shall inform the parties of the measures envisaged by the Court and shall give them an opportunity to submit comments orally or in writing.

Section 2

Measures of inquiry

Article 50

1. Without prejudice to Articles 21 and 22 of the Statute the following measures of inquiry may be adopted:

- (a) the personal appearance of the parties;
- (b) a request for information and production of documents;
- (c) oral testimony;
- (d) the commissioning of an expert's report;
- (e) an inspection of the place or thing in question.

2. The measures of inquiry which the Court has ordered may be conducted by the Court itself, or be assigned to the Judge-Rapporteur.

3. The Court shall prescribe the measures of inquiry that it considers appropriate by means of an order setting out the facts to be proved. Before the Court decides on the measures of inquiry referred to in paragraph 1 (c), (d) and (e) the parties shall be heard.

The order shall be served on the parties.

4. Evidence may be submitted in rebuttal and previous evidence may be amplified.

Article 51

The parties shall be entitled to attend the measures of inquiry.

Section 3

The summoning and examination of witnesses and experts

Article 52

1. The Court may, either of its own motion or on application by a party, order that certain facts be proved by witnesses. The order of the Court shall set out the facts to be established.

The Court may summon a witness of its own motion or on application by a party.

An application by a party for the examination of a witness shall state precisely about what facts and for what reasons the witness should be examined.

2. The witness shall be summoned by an order of the Court containing the following information:

- (a) the surname, forenames, description and address of the witness;
- (b) an indication of the facts about which the witness is to be examined;
- (c) where appropriate, particulars of the arrangements made by the Court for reimbursement of expenses incurred by the witness, and of the penalties which may be imposed on defaulting witnesses.

The order shall be served on the parties and the witnesses.

3. The Court may make the summoning of a witness for whose examination a party has applied conditional upon the deposit with the cashier of the Court of a sum sufficient to cover the taxed costs thereof; the Court shall fix the amount of the payment.

The cashier shall advance the funds necessary in connection with the examination of any witness summoned by the Court of its own motion.

A witness who has been duly summoned shall obey the summons and attend for examination, unless he proffers a valid excuse to the Court.

4. After the identity of the witness has been established, the President shall inform him that he will be required to vouch the truth of his evidence in the manner laid down in these Rules and that any violation by him constitutes an offence under Article 26 of the Statute.

5. Subject to the provisions of Article 54 the witness shall, before giving his evidence, take the following oath:

'I swear that I will tell the truth, the whole truth and nothing but the truth.'

The Court may, after hearing the parties, exempt a witness from taking the oath.

6. The witness shall give his evidence to the Court, the parties having been given notice to attend. After the witness has given his main evidence the President may, at the request of a party or of his own motion, put questions to him.

The other Judges may do likewise.

Subject to the control of the President, questions may be put to witnesses by the representatives of the parties.

7. The Registrar shall draw up minutes of every hearing of a witness, which shall contain, in addition to the information mentioned in Article 48 (2), the name, forenames, description and permanent address of each witness, and in which the evidence of each witness is reproduced.

The minutes shall be signed by the President or by the Judge-Rapporteur responsible for conducting the examination of the witness, and by the Registrar. Before the minutes are thus signed, witnesses shall be given an opportunity to check the content of the minutes and to sign them.

The minutes shall constitute an official record.

Article 53

1. The Court may order that an expert's report be obtained. The order appointing the expert shall define his task and set a time limit within which he is to make his report.

2. The expert shall receive a copy of the order, together with all the documents necessary for carrying out his task. He shall be under the supervision of the Judge-Rapporteur, who may be present during his investigation and who shall be kept informed of his progress in carrying out his task.

The Court may request the parties or one of them to lodge security for the taxed costs of the expert's report.

3. At the request of the expert, the Court may order the examination of witnesses. Their examination shall be carried out in accordance with Article 52.

4. The expert may give his opinion only on points which have been expressly referred to him.

5. After the expert has made his report, the Court may order that he be examined, the parties having been given notice to attend.

Subject to the control of the President, questions may be put to the expert by the representatives of the parties.

6. Subject to the provisions of Article 54, the expert shall, after making his report, take the following oath before the Court:

'I swear that I have conscientiously and impartially carried out my task.'

The Court may, after hearing the parties, exempt the expert from taking the oath.

Article 54

1. The President shall instruct any person who is required to take an oath before the Court as witness or expert, to tell the truth or to carry out his task conscientiously and impartially, as the case may be, and shall warn him of the criminal liability provided for in his national law in the event of any breach of this duty.

2. Witnesses and experts shall take the oath either in accordance with the first subparagraph of Article 52 (5) and the first subparagraph of Article 53 (6) or in the manner laid down by their national law.

3. Where their national law provides the opportunity to make, in judicial proceedings, a solemn affirmation equivalent to an oath as well as or instead of taking an oath, the witnesses and experts may make such an affirmation under the conditions and in the form prescribed in their national law.

Where their national law provides neither for taking an oath nor for making a solemn affirmation, the procedure described in the first paragraph of this Article shall be followed.

Article 55

The Court may, in accordance with Article 26 of the Statute, decide to report to the competent authority of the EFTA State referred to in Annex I any defaulting witness or any violation of an oath by a witness or expert.

The Registrar shall be responsible for communicating the decision of the Court. The decision shall set out the facts and circumstances on which the report is based.

Article 56

1. If one of the parties objects to a witness or to an expert on the ground that he is not a competent or proper person to act as witness or expert or for any other reason, or if a witness or expert refuses to give evidence, to take the oath or to make a solemn affirmation equivalent thereto, the matter shall be resolved by the Court.

2. An objection to a witness or to an expert shall be raised within two weeks after service of the order summoning the witness or appointing the expert; the statement of objection must set out the grounds of objection and indicate the nature of any evidence offered.

Article 57

1. Witnesses and experts shall be entitled to reimbursement of their travel and subsistence expenses. The cashier of the Court may make a payment to them towards these expenses in advance.

2. Witnesses shall be entitled to compensation for loss of earnings, and experts to fees for their services. The cashier of the Court shall pay witnesses and experts their compensation or fees after they have carried out their respective duties or tasks.

Article 58

1. The Court may, on application by a party or of its own motion, issue letters rogatory for the examination of witnesses or experts.

2. Letters rogatory shall be issued in the form of an order which shall contain the name, forenames, description and address of the witness or expert, set out the facts on which the witness or expert is to be examined, name the parties, their agents, lawyers or advisers, indicate their addresses for service and briefly describe the subject-matter of the proceedings.

Notice of the order shall be served on the parties by the Registrar.

3. The Registrar shall send the order to the competent authority of the EFTA State referred to in Annex II in whose territory the witness or expert is to be examined. Where necessary, the order shall be accompanied by a translation into the official language or languages of the State to which it is addressed.

The authority named pursuant to the first subparagraph shall pass on the order to the judicial authority which is competent according to its national law.

The competent judicial authority shall give effect to the letters rogatory in accordance with its national law. After implementation the competent judicial authority shall transmit to the authority named pursuant to the first subparagraph the order embodying the letters rogatory, any documents arising from the implementation and a detailed statement of costs. These documents shall be sent to the Registrar.

The Registrar shall be responsible for the translation of the documents into English.

4. The Court shall defray the expenses occasioned by the letters rogatory without prejudice to the right to charge them, where appropriate, to the parties.

Article 59

1. The Registrar shall draw up minutes of every hearing.

2. The minutes of a hearing of an expert shall contain, in addition to the information mentioned in Article 48 (2), the name, forenames, descriptions and permanent address of the expert examined.

3. The minutes shall be signed by the President and by the Registrar and shall constitute an official record.

4. The parties may inspect the minutes and any expert's report at the Registry and obtain copies at their own expense.

Chapter 4

JUDGMENTS

Article 60

The judgment shall contain:

- a statement that it is the judgment of the Court,
- the date of its delivery,
- the names of the President and of the Judges taking part in it,
- the name of the Registrar,
- the description of the parties,
- the names of the agents, advisers and lawyers of the parties,
- a statement of the forms of order sought by the parties,
- a summary of the facts,
- the grounds for the decision,
- the operative part of the judgment, including the decision as to costs.

Article 61

1. The judgment shall be delivered in open court; the parties shall be given notice to attend to hear it.

2. The original of the judgment, signed by the President, by the Judges who took part in the deliberations and by the Registrar, shall be sealed and deposited at the Registry; the parties shall be served with certified copies of the judgment.

3. The Registrar shall record on the original of the judgment the date on which it was delivered.

Article 62

The judgment shall be binding from the date of its delivery.

Article 63

1. Without prejudice to the provisions relating to the interpretation of judgments the Court may, of its own motion or on application by a party made within two weeks after the delivery of a judgment, rectify clerical mistakes, errors in calculation and obvious slips in it.

2. The parties, whom the Registrar shall duly notify, may lodge written observations within a period prescribed by the President.

3. The Court shall take its decision in closed session.

4. The original of the rectification order shall be annexed to the original of the rectified judgment. A note of this order shall be made in the margin of the original of the rectified judgment.

Article 64

If the Court should omit to give a decision on a specific head of claim or on costs, any party may within a month after service of the judgment apply to the Court to supplement its judgment.

The application shall be served on the opposite party and the President shall prescribe a period within which that party may lodge written observations.

After these observations have been lodged, the Court shall decide both on the admissibility and on the substance of the application.

Article 65

The Registrar shall arrange for the publication of reports of cases before the Court.

Chapter 5

COSTS

Article 66

1. A decision as to costs shall be given in the final judgment or in the order which closes the proceedings.

2. The unsuccessful party shall be ordered to pay the costs if they have been applied for in the successful party's pleadings.

Where there are several unsuccessful parties the Court shall decide how the costs are to be shared.

3. Where each party succeeds on some and fails on other heads, or where the circumstances are exceptional, the Court may order that the costs be shared or that the parties bear their own costs.

The Court may order a party, even if successful, to pay costs which the Court considers that party to have unreasonably or vexatiously caused the opposite party to incur.

4. The EFTA States, the EFTA Surveillance Authority, the Community and the EC Commission which intervene in the proceedings shall bear their own costs.

The Court may order an intervener other than those mentioned in the preceding subparagraph to bear his own costs.

5. A party who discontinues or withdraws from proceedings shall be ordered to pay the costs if they have been applied for in the other party's pleadings. However, upon application by the party who discontinues or withdraws from proceedings, the costs shall be borne by the other party if this appears justified by the conduct of that party.

Where the parties have come to an agreement on costs, the decision as to costs shall be in accordance with that agreement.

If costs are not claimed, the parties shall bear their own costs.

6. Where a case does not proceed to judgment the costs shall be in the discretion of the Court.

Article 67

Costs necessarily incurred by a party in enforcing a judgment or an order of the Court shall be refunded by the opposite party on the scale in force in the State where the enforcement takes place.

Article 68

Proceedings before the Court shall be free of charge, except that:

(a) where a party has caused the Court to incur avoidable costs the Court may order that party to refund them;

(b) where copying or translation work is carried out at the request of a party, the cost shall, in so far as the

Registrar considers it excessive, be paid for by that party on the scale of charges referred to in Article 14 (5).

Article 69

Without prejudice to the preceding Article, the following shall be regarded as recoverable costs:

- (a) sums payable to witnesses and experts under Article 57;
- (b) expenses necessarily incurred by the parties for the purpose of the proceedings, in particular the travel and subsistence expenses and the remuneration of agents, advisers or lawyers.

Article 70

- 1. If there is a dispute concerning the costs to be recovered, the Court shall, on application by the party concerned and after hearing the opposite party, make an order.
- 2. The parties may, for the purposes of enforcement, apply for an authenticated copy of the order.

Article 71

- 1. Sums due from the cashier of the Court shall be paid in the currency of the country where the Court has its seat.

At the request of the person entitled to any sum, it shall be paid in the currency of the country where the expenses to be refunded were incurred or where the steps in respect of which payment is due were taken.

- 2. Other debtors shall make payment in the currency of their country of origin.
- 3. Conversions of currency shall be made at the official rates of exchange ruling on the day of payment in the country where the Court has its seat.

Chapter 6

LEGAL AID

Article 72

- 1. A party who is wholly or in part unable to meet the costs of the proceedings may at any time apply for legal aid.

The application shall be accompanied by evidence of the applicant's need of assistance, and in particular by a document from the competent authority certifying his lack of means.

- 2. If the application is made prior to proceedings which the applicant wishes to commence, it shall briefly state the subject of such proceedings.

The application need not be made through a lawyer.

- 3. The President shall designate a Judge to act as Rapporteur. The Court shall, after considering the written observations of the opposite party, decide whether legal aid should be granted in full or in part, or whether it should be refused. The Court shall consider whether there is manifestly no cause of action.

The Court shall make an order without giving reasons.

- 4. The Court, by any order by which it decides that a person is entitled to receive legal aid, shall order that a lawyer be appointed to act for him.

- 5. If the person does not indicate his choice of lawyer, or if the Court considers that his choice is unacceptable, the Registrar shall send a copy of the order and of the application for legal aid to the authority named in Annex III being the competent authority of the EFTA State concerned.

- 6. The Court, in the light of the suggestions made by that authority, shall of its own motion appoint a lawyer to act for the person concerned.

- 7. The Court may at any time, either of its own motion or on application, withdraw legal aid if the circumstances which led to its being granted alter during the proceedings.

- 8. Where legal aid is granted, the cashier of the Court shall advance the funds necessary to meet the expenses.

The Court shall adjudicate on the lawyers disbursements and fees; the President may, on application by the lawyer, order that he receives an advance.

In its decision as to costs the Court may order the payment to the cashier of the Court of the whole or any part of amounts advanced as legal aid.

The Registrar shall take steps to obtain the recovery of these sums from the party ordered to pay them.

Chapter 7

DISCONTINUANCE

Article 73

If, before the Court has given its decision, the parties reach a settlement of their dispute and intimate to the

Court the abandonment of their claims, the President shall order the case to be removed from the register and shall give a decision as to costs in accordance with Article 66 (5), having regard to any proposals made by the parties on the matter.

This provision shall not apply to proceedings under Articles 36 and 37 of the Agreement.

Article 74

If the applicant informs the Court in writing that he wishes to discontinue the proceedings, the President shall order the case to be removed from the register and shall give a decision as to costs in accordance with Article 66 (5).

Chapter 8

SERVICE

Article 75

1. Where a document is to be served on an EFTA State, the EFTA Surveillance Authority, the Community or the EC Commission, service is effected on the day on which, at the seat of the Court, the Permanent Delegation of the State concerned, or the Permanent Delegation of the EC Commission or the Council of the European Union, or the EFTA Surveillance Authority has been notified by registered post or by telefax that the document is available at the Court.

2. Where these Rules require that a document be served on any other person, the Registrar shall ensure that service is effected at that person's address for service either by the dispatch of a copy of the document by registered post with a form for acknowledgement of receipt or by personal delivery of the copy against a receipt.

3. The Registrar shall prepare and certify the copies of documents to be served, save where the parties themselves supply the copies in accordance with Article 32 (1).

Chapter 9

TIME LIMITS

Article 76

1. Any period of time prescribed by the Agreement, the Statute or these Rules for the taking of any procedural step shall be reckoned as follows:

(a) where a period expressed in days, weeks, months or years is to be calculated from the moment at which

an event occurs or an action takes place, the day during which that event occurs or that action takes place shall not be counted as falling within the period in question;

(b) a period expressed in weeks, months or in years shall end with the expiry of whichever day in the last week, month or year is the same day of the week, or falls on the same date, as the day during which the event or action from which the period is to be calculated occurred or took place. If, in a period expressed in months or in years, the day on which it should expire does not occur in the last month, the period shall end with the expiry of the last day of that month;

(c) where a period is expressed in months and days, it shall first be reckoned in whole months, then in days;

(d) periods shall include official holidays, Saturdays and Sundays;

(e) periods shall not be suspended during the judicial vacations.

2. If the period would otherwise end on a Saturday, Sunday or an official holiday, it shall be extended until the end of the first following working day.

A list of official holidays drawn up by the Court shall be published in the EEA section of and the *EEA Supplement to the Official Journal of the European Communities*.

Article 77

The period of time allowed for commencing proceedings against a measure adopted by the EFTA Surveillance Authority shall run from the day following the receipt by the person concerned of notification of the measure or, where the measure is published, from the 15th day after publication thereof in the EEA section of and the *EEA Supplement to the Official Journal of the European Communities*.

Article 78

Any time limit prescribed pursuant to these Rules may be extended by whomever prescribed it.

Any period of time prescribed by the Agreement, the Statute or these Rules may not be extended on considerations of distance alone.

The President may delegate to the Registrar power of signature for the purpose of fixing time limits which, pursuant to these Rules, it falls to him to prescribe or of extending such time limits.

Chapter 10

STAY OF PROCEEDINGS

Article 79

1. The proceedings may be stayed by decision of the President, after hearing the Judge-Rapporteur, and, save in the case of references for an advisory opinion as referred to in Article 96, the parties.

The proceedings may be resumed by order or decision, following the same procedure.

The orders or decisions referred to in this paragraph shall be served on the parties.

2. The stay of proceedings shall take effect on the date indicated in the order or decision of stay or, in the absence of such indication, on the date of that order or decision.

While proceedings are stayed time shall cease to run for the purposes of prescribed time limits for all parties.

3. Where the order or decision of stay does not fix the length of stay, it shall end on the date indicated in the order or decision of resumption or, in the absence of such indication, on the date of the order or decision of resumption.

From the date of resumption time shall begin to run afresh for the purposes of the time limits.

TITLE III

SPECIAL FORMS OF PROCEDURE

Chapter 1

SUSPENSION OF OPERATION OR ENFORCEMENT AND OTHER INTERIM MEASURES

Article 80

1. An application to suspend the operation of any measure adopted by the EFTA Surveillance Authority, made pursuant to Article 40 of the Agreement shall be admissible only if the applicant is challenging that measure in proceedings before the Court.

An application for the adoption of any other interim measure referred to in Article 41 of the Agreement shall be admissible only if it is made by a party to a case before the Court and relates to that case.

2. An application of a kind referred to in paragraph 1 of this Article shall state the subject-matter of the

proceedings, the circumstances giving rise to urgency and the pleas of fact and law establishing a *prima facie* case for the interim measures applied for.

3. The application shall be made by a separate document and in accordance with the provisions of Articles 32 and 33.

Article 81

1. The application shall be served on the opposite party, and the President shall prescribe a short period within which that party may submit written or oral observations.

2. The President may order a preparatory inquiry.

The President may grant the application even before the observations of the opposite party have been submitted. This decision may be varied or cancelled even without any application being made by any party.

Article 82

The President shall either decide on the application himself or refer it to the Court.

If the President is absent or prevented from attending, Article 9 shall apply.

Where the application is referred to it, the Court shall postpone all other cases, and shall give a decision. Article 81 shall apply.

Article 83

1. The decision on the application shall take the form of a reasoned order. The order shall be served on the parties forthwith.

2. The enforcement of the order may be made conditional on the lodging by the applicant of security, of an amount and nature to be fixed in the light of the circumstances.

3. Unless the order fixes the date on which the interim measure is to lapse, the measure shall lapse when final judgment is delivered.

4. The order shall have only an interim effect, and shall be without prejudice to the decision of the Court on the substance of the case.

Article 84

On application by a party, the order may at any time be varied or cancelled on account of a change in circumstances.

Article 85

Rejection of an application for an interim measure shall not bar the party who made it from making a further application on the basis of new facts.

Article 86

The provisions of this chapter shall apply to applications to suspend the enforcement of a decision of the Court or of any measure adopted by the EFTA Surveillance Authority, submitted pursuant to Article 19 of the Agreement.

The order granting the application shall fix, where appropriate, a date on which the interim measure is to lapse.

Chapter 2

PRELIMINARY ISSUES

Article 87

1. A party applying to the Court for a decision on a preliminary objection or other preliminary plea not going to the substance of the case shall make the application by a separate document.

The application must state the pleas of fact and law relied on and the form of order sought by the applicant; any supporting documents must be annexed to it.

2. As soon as the application has been lodged, the President shall prescribe a period within which the opposite party may lodge a document containing a statement of the form of order sought by that party and its pleas in law.

3. Unless the Court decides otherwise, the remainder of the proceedings shall be oral.

4. The Court shall decide on the application or reserve its decision for the final judgment.

If the Court refuses the application or reserves its decision, the President shall prescribe new time limits for the further steps in the proceedings.

Article 88

1. Where it is clear that the Court has no jurisdiction to take cognizance of an action or where the action is manifestly inadmissible, the Court may, by reasoned order, and without taking further steps in the proceedings, give a decision on the action.

2. The Court may at any time of its own motion consider whether there exists any absolute bar to

proceeding with a case, and shall give its decision in accordance with Article 87 (3) and (4).

Chapter 3

INTERVENTION

Article 89

1. An application to intervene must be made within three months of the publication of the notice referred to in Article 14 (6).

The application shall contain:

- (a) the description of the case;
- (b) the description of the parties;
- (c) the name and address of the intervener;
- (d) the intervener's address for service at the place where the Court has its seat;
- (e) the form of order sought, by one or more of the parties, in support of which the intervener is applying for leave to intervene;
- (f) except in the case of applications to intervene made by EFTA States, the EFTA Surveillance Authority, the Community and the EC Commission, a statement of the reasons establishing the intervener's interest in the result of the case.

The intervener shall be represented in accordance with Article 17 of the Statute.

Articles 32 and 33 shall apply.

2. The application shall be served on the parties.

The President shall give the parties an opportunity to submit their written or oral observations before deciding on the application.

The President shall decide on the application by order or shall refer the application to the Court.

3. If the President allows the intervention, the intervener shall receive a copy of every document served on the parties. The President may, however, on application by one of the parties, omit secret or confidential documents.

4. The intervener must accept the case as he finds it at the time of his intervention.

5. The President shall prescribe a period within which the intervener may submit a statement in intervention.

The statement in intervention shall contain:

- (a) a statement of the form of order sought by the intervener in support of or opposing, in whole or in part, the form of order sought by one of the parties;
- (b) the pleas in law and arguments relied on by the intervener;
- (c) where appropriate, the nature of any evidence offered.

6. After the statement in intervention has been lodged, the President shall, where necessary, prescribe a time limit within which the parties may reply to that statement.

Chapter 4

JUDGMENTS BY DEFAULT AND APPLICATIONS TO SET THEM ASIDE

Article 90

1. If a defendant on whom an application initiating proceedings has been duly served fails to lodge a defence to the application in the proper form within the time prescribed, the applicant may apply for judgment by default.

The application shall be served on the defendant. The President shall fix a date for the opening of the oral procedure.

2. Before giving judgment by default the Court shall consider whether the application initiating proceedings is admissible, whether the appropriate formalities have been complied with, and whether the application appears well founded. The Court may order a preparatory inquiry.

3. A judgment by default shall be enforceable. The Court may, however, grant a stay of execution until the Court has given its decision on any application under paragraph 4 to set aside the judgment, or it may make execution subject to the provision of security of an amount and nature to be fixed in the light of the circumstances; this security shall be released if no such application is made or if the application fails.

4. Application may be made to set aside a judgment by default.

The application to set aside the judgment must be made within one month from the date of service of the judgment and must be lodged in the form prescribed by Articles 32 and 33.

5. After the application has been served, the President shall prescribe a period within which the other party may submit his written observations.

The proceedings shall be conducted in accordance with Articles 40 *et seq.*

6. The Court shall decide by way of a judgment which may not be set aside. The original of this judgment shall be annexed to the original of the judgment by default. A note of the judgment on the application to set aside shall be made in the margin of the original of the judgment by default.

Chapter 5

EXCEPTIONAL REVIEW PROCEDURES

Section 1

Third-party proceedings

Article 91

1. Articles 32 and 33 shall apply to an application initiating third-party proceedings. In addition such an application shall:

- (a) specify the judgment contested;
- (b) state how that judgment is prejudicial to the rights of the third party;
- (c) indicate the reasons for which the third party was unable to take part in the original case.

The application must be made against all the parties to the original case.

Where the judgment has been published in the EEA section of and the *EEA Supplement to the Official Journal of the European Communities*, the application must be lodged within two months of the publication.

2. The Court may, on application by the third party, order a stay of execution of the judgment. The provisions of Title III, Chapter 1, shall apply.

3. The contested judgment shall be varied on the points on which the submissions of the third party are upheld.

The original of the judgment in the third-party proceedings shall be annexed to the original of the contested judgment. A note of the judgment in the third-party proceedings shall be made in the margin of the original of the contested judgment.

Section 2

Revision

Article 92

An application for revision of a judgment shall be made within three months of the date on which the facts on which the application is based, came to the applicant's knowledge.

Article 93

1. Articles 32 and 33 shall apply to an application for revision. In addition such an application shall:

- (a) specify the judgment contested;
- (b) indicate the points on which the judgment is contested;
- (c) set out the facts on which the application is based;
- (d) indicate the nature of the evidence to show that there are facts justifying revision of the judgment, and that the time limit laid down in Article 92 has been observed.

2. The application must be made against all parties to the case in which the contested judgment was given.

Article 94

1. Without prejudice to its decision on the substance, the Court in closed session, shall, having regard to the written observations of the parties, give in the form of a judgment its decision on the admissibility of the application.

2. If the Court finds the application admissible, it shall proceed to consider the substance of the application and shall give its decision in the form of a judgment in accordance with these Rules.

3. The original of the revising judgment shall be annexed to the original of the judgment revised. A note of the revising judgment shall be made in the margin of the original of the judgment revised.

Chapter 6

INTERPRETATION OF JUDGMENTS

Article 95

1. An application for interpretation of a judgment shall be made in accordance with Articles 32 and 33. In addition it shall specify:

- (a) the judgment in question;
- (b) the passages of which interpretation is sought.

The application must be made against all the parties to the case in which the judgment was given.

2. The Court shall give its decision in the form of a judgment after having given the parties an opportunity to submit their observations.

The original of the interpreting judgment shall be annexed to the original of the judgment interpreted. A note of the interpreting judgment shall be made in the margin of the original of the judgment interpreted.

Chapter 7

ADVISORY OPINIONS

Article 96

1. An EFTA State which, in application of Article 34 of the Agreement, has limited in its internal legislation the right to request an advisory opinion to courts and tribunals against whose decisions there is no judicial remedy under national law, should without delay inform the Court of such legislation and subsequent amendments to it. The notification shall be accompanied by the text of the relevant legislation.

2. In cases governed by Article 34 of the Agreement the procedure shall be governed by the provisions of these Rules, subject to adaptations necessitated by the nature of the reference for an advisory opinion.

3. The request for an advisory opinion shall be accompanied by a summary of the case before the national court including a description of the facts of the case as well as a presentation of the provision in issue in relation to the national legal order, necessary to enable the Court to assess the question to which a reply is sought.

4. The Court may ask the national court for clarification which shall be put in the language in which the request for an advisory opinion was made.

Article 97

1. The requests of national courts or tribunals referred to in Article 96 shall be communicated to the Governments of the EFTA States, the EFTA Surveillance Authority, the Community, the EC Commission and the parties to the dispute in the original version, accompanied by a translation into English of the request. The provisions on statements of case and written observations in Article 20 of the Statute shall apply also to the parties to the dispute.

2. As regards the representation and attendance of the parties to the main proceedings in the advisory opinion procedure the Court shall take account of the Rules of Procedure of the national court or tribunal which made the reference.

3. Where a question referred to the Court for an advisory opinion is manifestly identical to a question on which the Court has already ruled or given an opinion, the Court may, after informing the court or tribunal which referred the question to it and hearing any observations submitted by the Governments of the EFTA States, the EFTA Surveillance Authority, the Community, the EC Commission and the parties to the dispute, give its decision by reasoned order in which reference is made to its previous judgment or opinion.

4. Without prejudice to paragraph 3 of this Article, the procedure before the Court in the case of a reference for an advisory opinion shall also include an oral part.

However, after the submission of the statements or observations, as provided for in Article 20 of the Statute and paragraph 1 of this Article, the Court, acting on a report from the Judge-Rapporteur, after informing those who are thus entitled to submit such statements or observations, may decide otherwise, provided that none of those has asked to present oral argument.

Before the oral part of the procedure, a report from the Judge-Rapporteur shall be communicated to the Governments of the EFTA States, the EFTA Surveillance Authority, the Community, the EC Commission and the parties to the dispute. The report shall be accompanied by a translation as provided for in Article 27 (3).

5. It shall be for the national court or tribunal to decide as to the costs of the reference.

In special circumstances the Court may grant, by way of legal aid, assistance for the purpose of facilitating the representation or attendance of a party. The provisions of Article 72 shall apply *mutatis mutandis*.

TITLE IV

MISCELLANEOUS PROVISIONS

Article 98

These Rules, which are authentic in the English language, shall be published in the EEA section of and the *EEA Supplement to the Official Journal of the European Communities*.

These Rules shall be officially translated by the Court into the Finnish, German, Icelandic, Norwegian and Swedish languages.

*ANNEX I***List of national authorities referred to in the first paragraph of Article 55****AUSTRIA**

The Federal Ministry for Justice

FINLAND

The Ministry of Justice

ICELAND

The Ministry of Justice and Ecclesiastical Affairs

NORWAY

The Royal Ministry of Justice and the Police

SWEDEN

The Office of the Prosecutor-General

*ANNEX II***List of national authorities referred to in the first paragraph of Article 58 (3)****AUSTRIA**

The Federal Ministry for Justice

FINLAND

The Ministry of Justice

ICELAND

The Ministry of Justice and Ecclesiastical Affairs

NORWAY

The Royal Ministry of Justice and the Police

SWEDEN

The Ministry for Foreign Affairs

ANNEX III

List of national authorities referred to in Article 72 (5)

AUSTRIA

The Federal Ministry for Justice

FINLAND

The Ministry of Justice

ICELAND

The Ministry of Justice and Ecclesiastical Affairs

NORWAY

The Royal Ministry of Justice and the Police

SWEDEN

The Swedish Bar Association

INSTRUCTIONS TO THE REGISTRAR

adopted by the EFTA Court on 7 April 1994

SECTION ONE

Responsibilities of the Registry

Article 1

1. The official opening hours of the Registry shall be from 9.00 to 12.00 and from 14.00 to 16.00 from Monday to Friday, except on the official holidays as decided by the EFTA Court each year.

2. In any event the Registry shall at every public hearing held by the Court be open to the public half an hour before the hearing begins.

Article 2

The Registrar shall be responsible for maintaining the files of pending cases and for keeping them fully up to date.

Article 3

1. The Registrar shall be responsible for drawing up minutes of decisions under the Rules of Procedure. He shall submit them to the responsible Judges for their signatures.

2. The Registrar shall ensure that where the Agreement between the EFTA States on the establishment of a Surveillance Authority and a Court of Justice, the Rules of Procedure or any other act giving powers to the Court provide for a document to be served, a notice to be given or a communication to be made, the steps are carried out in accordance with the Rules of Procedure; unless otherwise provided in Article 75 (1), the documents, notices and communications shall be sent by registered post, accompanied by a note signed by the Registrar giving the number of the case and the registration number of the document, together with a brief indication as to its nature. A copy of the note shall be appended to the original document.

3. The parties shall be served with the pleadings and other documents relating to the proceedings.

Where a document is very bulky and only one specimen of it is lodged at the Registry, the Registrar shall, after consulting the Judge-Rapporteur, inform the parties by registered letter that the document may be inspected by them at the Registry.

Article 4

1. A party who has lodged a procedural document at the Registry shall, if he so requests, be given a receipt.

2. Unless otherwise expressly authorized by the President or the Court, the Registrar shall decline to accept or, as the case may be, shall without delay return by registered post any pleading or other document not provided for in the Rules of Procedure or not worded in the language referred to in Articles 25 to 27 of the Rules of Procedure.

3. On a procedural document which has been lodged on a date other than the date of its registration, a note shall be made stating that it has been so lodged.

Article 5

The Registrar shall, after consulting the President and the Judge-Rapporteur, take all measures necessary for implementing Article 33 (6) of the Rules of Procedure.

He shall prescribe the period mentioned in that Article and shall communicate it to the person concerned by registered letter with a form for acknowledgement of receipt.

If the person concerned does not comply with the directions of the Registrar, the latter shall refer the matter to the President of the Court.

Article 6

Where a decision is delivered in open court a note to that effect shall be made at the foot of the text; the note shall read as follows:

‘Delivered in open court in ... on ...(date)

(Signature)
Registrar

(Signature)
President’

Article 7

1. Before every public hearing of the Court the Registrar shall draw up a list for the hearing.

This list shall contain:

- the date, hour and place of the hearing,
- the references to the cases which will be called,
- the names of the parties,
- the names and descriptions of the parties' agents, advisers and lawyers.

The list shall be displayed at the entrance to the courtroom.

2. The Registrar shall draw up minutes of every public hearing as provided in Articles 48 (2), 52 (7) and 59 (2) of the Rules of Procedure.

The minutes shall thus contain:

- the date and place of the hearing,
- the names of the Judges and Registrar present,
- the reference to the case,
- the names of the parties,
- the names and addresses of the parties' agents, advisers and lawyers,
- the names, forenames, descriptions and permanent addresses of the witnesses or experts examined,
- an indication of the evidence produced at the hearing,
- an indication of the documents lodged by the parties in the course of the hearing.
- the decisions of the Court or the President of the Court given at the hearing,

If the oral procedure in the case extends over several successive hearings, it may be reported in a single set of minutes.

Article 8

The Registrar shall ensure that a person or body responsible for making an investigation or giving an expert opinion in accordance with Article 53 of the Rules of Procedure is in possession of the material necessary for carrying out his task.

Article 9

Certificates as provided for in Article 29 (b) of the Rules of Procedure shall be delivered to the adviser or lawyer concerned if he so requests, where this step is required for the proper conduct of proceedings.

The certificates shall be drawn up by the Registrar.

SECTION TWO

Keeping of the register

Article 10

The Registrar shall be responsible for keeping up to date the register of cases brought before the Court.

Article 11

When an application initiating proceedings is registered, the case shall be given a serial number and a statement of either the name of the applicant or the subject-matter of the application. Cases shall be referred to by their serial numbers.

An application for the adoption of interim measures shall be given the same serial number as the principal action, followed by the letter 'R'.

Article 12

The pages of the register shall be numbered in advance.

At regular intervals the President and the Registrar shall check the register and initial it in the margin against the last entry.

Article 13

The procedural documents in cases brought before the Court, including documents lodged by the parties and documents served by the Registrar, shall be entered in the register.

An annex which has not been lodged at the same time as the procedural document to which it relates shall be separately registered.

Article 14

1. Entries in the register shall be made chronologically in the order in which the documents to be registered are lodged; they shall be numbered consecutively.

2. Procedural documents shall be registered as soon as they are lodged at the Registry.

Documents drawn up by the Court shall be registered on the day of issue.

3. The entry in the register shall contain the information necessary for identifying the document and in particular:

- the date of registration,
- the reference to the case,

- the nature of the document,
- the date of the document.

4. Where a correction is made in the register a note to that effect, initialled by the Registrar, shall be made in the margin.

Article 15

The registration number of every document drawn up by the Court shall be noted on its first page.

A note of the registration, worded as follows, shall be stamped on the original of every document lodged by the parties:

‘Registered at the EFTA Court under No ...

... day of ... 19 ..’

This note shall be signed by the Registrar.

SECTION THREE

Scale of charges of the Registry of the Court

Article 16

No Registry charges may be imposed save those referred to in this Section.

Article 17

Registry charges may be paid either in cash to the cashier of the Court or by bank transfer to the Court account at the bank named in the demand for payment.

Article 18

Where the party owing Registry charges has been granted legal aid, Article 72 (8) of the Rules of Procedure shall apply.

Article 19

Registry charges shall be as follows:

- (a) for an authenticated copy of any decision, a certified copy of a procedural document or set of minutes, an extract from the Court register, a certified copy of the Court register or a certified copy made pursuant to Article 68 (b) of the Rules of Procedure as well as other copies: SFrs. 3,00 a page;

- (b) for a translation made pursuant to Article 68 (b) of the Rules of Procedure: the actual costs incurred by the Court; however not more than SFrs. 150,00 a page.

Article 20

1. Where pursuant to Articles 52 (3), 57 (1) and 72 (8) of the Rules of Procedures an application is made to the cashier of the Court for an advance payment, the Registrar shall direct that particulars of the costs for which the advance payment is required be delivered.

Witnesses must supply evidence of their loss of earnings and experts must supply a note of fees for their services.

2. The Registrar shall order payment by the cashier of the Court of sums payable pursuant to the preceding paragraph, against a receipt or other proof of payment.

Where he is of the opinion that the amount applied for is excessive, he may of his own motion reduce it or order payment by instalments.

3. The Registrar shall order the cashier of the Court to refund the costs of letters rogatory payable in accordance with Article 58 (4) of the Rules of Procedure to the authority designated by the competent authority referred to in Article 58 (3) of those rules, in the currency of the State concerned against proof of payment.

4. The Registrar shall order the cashier of the Court to make the advance payment referred to in the first and second paragraphs of Article 72 (8) of the Rules of Procedure, subject to the second subparagraph of paragraph 2 of this Article.

Article 21

1. Where sums paid out by way of legal aid pursuant to Article 72 (8) of the Rules of Procedure are recoverable, payment of the sums shall be demanded by registered letter, signed by the Registrar. The letter shall state not only the amount payable but also the method of payment and the period prescribed.

The same provision shall apply to the implementation of Article 68 (a) of the Rules of Procedure and Article 20 (1), (3) and (4) of these Instructions.

2. If the sums demanded are not paid within the period prescribed by the Registrar, he shall request the Court to

make an enforceable decision and to order its enforcement in accordance with Article 110 of the Agreement on the European Economic Area.

Where a party is by a judgment or order directed to pay costs to the cashier of the Court, the Registrar shall, if the costs are not paid within the period prescribed, apply for payment of the costs to be enforced.

SECTION FOUR

Publications of the Court

Article 22

The Registrar shall be responsible for the publications of the Court.

Article 23

There shall be published Reports of Cases before the EFTA Court which shall, subject to a decision to the contrary, contain the judgments, including advisory opinions, of the Court as well as the interim orders made in the course of the calendar year.

Article 24

The Registrar shall cause the following to be published in the EEA section of and the *EEA Supplement to the Official Journal of the European Communities*:

- (a) the Rules of Procedure, and amendments and corrections thereto;
- (b) notices on lodging of cases, as referred to in Article 14 (6) of the Rules of Procedure;
- (c) notices of the removal of cases from the Register;
- (d) subject to a decision by the Court to the contrary, the operative part of every judgment, including advisory opinions, and interim orders;
- (e) the composition of the Court;
- (f) the appointment of the President of the Court;
- (g) the appointment of the Registrar;
- (h) the appointment of the Assistant Registrar.

Final provisions

Article 25

These Instructions, which are authentic in the English language, shall be officially translated by the Court into the Finnish, German, Icelandic, Norwegian and Swedish languages. They shall be published in the EEA section of and the *EEA Supplement to the Official Journal of the European Communities*.

DECISION
of 15 February and 3 May 1994
on official holidays of the EFTA Court in 1994

THE EFTA COURT,

Having regard to Article 24 (3) of the Rules of Procedure, which requires the Court to observe the official holidays of the place where it has its seat,

Having regard to Article 76 (2) of the Rules of Procedure, which requires the Court to draw up a list of official holidays and to publish it in the EEA section of and the EEA *Supplement to the Official Journal of the European Communities*,

DECIDES:

The following days in 1994 will be observed as official holidays during which the Court will be closed:

Friday	1 April	Good Friday
Monday	4 April	Easter Monday
Thursday	12 May	Ascension Day
Monday	23 May	Whit Monday
Monday	1 August	Swiss National Day
Thursday	8 September	Jeûne Genevois
Friday	9 September	Jeûne Genevois
Friday	23 December	Christmas
Monday	26 December	Christmas
