

II. TRADE POLICY REGIME: FRAMEWORK AND OBJECTIVES

(1) GENERAL CONSTITUTIONAL AND LEGAL FRAMEWORK

1. Iceland is a parliamentary democracy. The authority of the President, the head of State, is entrusted to the ministers who are responsible for executive acts. Legislative authority is shared between the parliament and the President. Bills become law only after being passed by the unicameral parliament (the Althing) and signed by the President. In early 2010 and again in early 2011, the President decided not to sign two separate bills concerning the reimbursement of payments by the UK and Dutch authorities for banking depositors. In both cases the President referred the bills to referenda and they were rejected by popular vote.

2. Amendments to the current Constitution must be presented to the Althing for approval. If approved, the Althing is dissolved and a general election held. The amendments must then be adopted by the new parliament and they take effect when signed by the President. A proposal for new Constitution, prepared by a Constitutional Council, was presented to the Althing in July 2011.¹ A national referendum on its adoption is set for 20 October 2012.

3. As a civil law country, statutory law is supreme to the extent that it does not conflict with the Constitution. All legal acts must be published in Section A of the *Icelandic Law and Ministerial Gazette (Stjórnartíðindi)*.² These laws may give the administration the authority to issue implementing regulations, which are published in Section B of the *Gazette*. Other sources of law that the courts may take into account include customary law, tradition of culture (*eðli máls*), and statements and decisions by administrative authorities (such as the Parliamentary Ombudsman and the Directorate of Customs).³

4. The judiciary is independent of the executive and legislative authorities. There are two levels of general courts: eight district courts (*Héraðsdómur*) with jurisdiction in most civil and criminal cases; and the Supreme Court (*Hæstaréttar*), which hears appeals from the district courts. In addition, there are two special courts: the Court of Impeachment (*Landsdómur*), which deals with cases where members of the executive are accused of criminal behaviour; and the Labour Court (*Félagsdómur*). There are no specialized commercial courts or fast-track processes for commercial cases, although the average time required for civil cases is less than a year (341 days in 2011) and less for criminal cases (73 days in 2011).

5. Under Iceland's membership of the EEA, its laws are required to be in conformity with the *acquis communautaire* to the extent that the EEA Joint Committee decides to incorporate EU legislation into the EEA Agreement (see section (3)(ii)(b) below). In many cases, this has been through Icelandic law giving the relevant minister the power to make regulations that give effect to the relevant EU legislation or by direct reference in the Icelandic law to the relevant EU legislation. In cases concerning EEA-related matters, a district court or the Supreme Court may ask the EFTA Court for an advisory opinion on the interpretation of the relevant EEA law.

6. Authority to conclude international treaties rests with the executive. Parliamentary approval is required for treaties that entail amendments to domestic legislation. Under Iceland's legal system,

¹ For the bill on the new Constitution, see Constitutional Council online information. Viewed at: <http://stjornlagarad.is/english/> [July 2012].

² Since 2005, the *Icelandic Law and Ministerial Gazette* has been an online publication. Viewed at: <http://www.stjornartidindi.is/> [July 2012].

³ Tryggvadóttir and Ingadóttir (2007).

the terms of an international treaty are not considered domestic law unless expressly incorporated into the domestic legal order. However, customary law requires courts to seek to interpret internal law in accordance with international agreements to which Iceland is a party. Upon ratification, international agreements to which Iceland is a party are published in Section C of the *Law and Ministerial Gazette*.

(2) TRADE POLICY DEVELOPMENT AND OBJECTIVES

(i) Agencies involved in trade policy implementation

7. The Ministry for Foreign Affairs is responsible for foreign trade policy and represents Iceland in negotiations in the WTO, with the EU, the EEA, and EFTA. Other government agencies involved in formulating trade policy include:

- the Ministry of Finance, which is responsible for taxes, including tariffs, and government procurement. Under the Ministry, the Directorate of Customs is responsible for customs administration, including assessing and collecting tariffs and other duties on imports, the Directorate of Tax Investigation and the Internal Revenue Directorate are responsible for direct and indirect taxation, and the Committee on Anti-Dumping and Countervailing Duties is responsible for contingency measures;
- the Ministry of Industry, Energy and Tourism, which has responsibility for domestic trade, and for policy on standardization implementation, primarily the responsibility of Icelandic Standards;
- the Ministry of Economic Affairs, which monitors the Central Bank, Statistics Iceland, and the Financial Supervisory Authority. Under the Minister, the Patent Office receives applications for and grants patents, and the Competition Authority implements competition policy;
- the Ministry of Fisheries and Agriculture, which is responsible for fisheries and agriculture policy, including trade policy and domestic support. The Icelandic Food and Veterinary Authority is the inspection and administrative body with responsibilities that include: food safety; plant and livestock quality and health-related matters; feed, seed, and fertilizer services; administration of organic production; and monitoring of animal welfare; and
- the Ministry of Transport and Communications, which is responsible for policy formulation in transport, and telecommunications.

8. According to a Parliamentary Resolution of 11 May 2012, the responsibilities of some ministries are to change from 4 September 2012: the Ministry of Industry, Energy and Tourism and the Ministry of Fisheries and Agriculture are to merge to form the Ministry of Industries and Innovation; the tasks of the Ministry of Economic Affairs are to be transferred to the Ministry of Finance and the Ministry of Industries and Innovation; and the Ministry of the Environment will become the Ministry of the Environment and Natural Resources.

9. Through regular consultations, the private sector's views are taken into account in formulating trade policy. The Confederation of Icelandic Employers represents several professional industry associations, including the Federation of Icelandic Industries and the Federation of Fish-processing Plants. The Trade Council of Iceland and the Icelandic Chamber of Commerce represent businesses

in Iceland. The fishery sector is represented by the Fisheries Association and the Aquaculture Association, while farmers are represented by the Farmers' Association of Iceland.

(ii) Trade policy objectives

10. Iceland is a small open economy and international trade is central to its economic policy, which is focused on its application to become a member of the EU, and its membership of the EEA, EFTA, and the WTO.

11. In July 2009, Iceland applied for membership of the EU and negotiations started later that month. Negotiations are ongoing, based on 35 Chapters covering all areas under the *acquis communautaire*. Of these, 10 chapters are fully covered by the EEA already⁴, 11 are partially covered⁵, and 14 are not covered.^{6,7}

(3) TRADE AGREEMENTS AND ARRANGEMENTS

(i) World Trade Organization

12. Iceland is an original Member of the WTO. The Icelandic authorities indicate that there was no need to implement the Marrakesh Agreement through a single legislative instrument, and that care was taken to ensure that domestic laws were in accordance with Iceland's WTO commitments. Iceland participated in the post-Uruguay Round negotiations on telecommunications and financial services; its commitments in these areas were annexed to the Fourth and Fifth Protocols to the GATS. Iceland is a party to the Agreement on Government Procurement and a participant in the Information Technology Agreement.

13. Iceland has been neither a complainant nor respondent in any WTO dispute. It has been a third party in eight cases: three cases taken by Canada, Peru, and Chile against the European Communities on the trade description of scallops⁸; a case taken by the United States against Australia on measures affecting the importation of salmonids⁹; two cases by New Zealand and Australia against the United States on safeguard measures on imports of fresh, chilled or frozen lamb¹⁰; and

⁴ The chapters fully covered by the EEA are: (1) Free movement of goods; (2) Freedom of movement for workers; (3) Right of establishment and freedom to provide services; (4) Free movement of capital; (5) Public procurement; (6) Company law; (7) Intellectual property law; (8) Competition; (9) Financial services; (10) Information society and media.

⁵ The chapters partially covered by the EEA are: (12) Food safety, veterinary and phytosanitary policy; (14) Transport policy; (15) Energy; (18) Statistics; (19) Social policy and employment; (20) Enterprise and industrial policy; (21) Trans-European networks; (25) Research and development; (26) Education and culture; (27) Environment; (28) Consumer and health protection.

⁶ The chapters not covered by the EEA are: (11) Agriculture and rural development; (13) Fisheries; (16) Taxation; (17) Economic and monetary policy; (22) Regional and coordination of structural instruments; (23) Judiciary and fundamental rights; (24) Justice, freedom and security; (29) Customs union; (30) External relations; (31) Foreign, security and defence policy; (32) Financial control; (33) Financial and budgetary provisions; (34) Institutions; and (35) Other.

⁷ For more information on Iceland's application for membership of the EU, see: Ministry of Foreign Affairs online information. Viewed at: <http://europe.mfa.is/phase1/>; and European Commission online information. Viewed at: http://ec.europa.eu/enlargement/candidate-countries/iceland/index_en.htm [March 2012].

⁸ WTO Documents DS7, DS12, and DS14.

⁹ WTO Document DS21.

¹⁰ WTO Documents DS177 and DS178.

two cases taken by Canada and Norway against the European Communities on measures prohibiting the importation and marketing of seal products.¹¹

14. Although a number of notifications have been submitted to the WTO, particularly on agriculture and regional trade agreements (Table II.1), as of end-July 2012 a considerable number of regular notifications remained outstanding (Table II.2).

Table II.1
Selected notifications to the WTO, January 2006-December 2012

WTO Agreement	Description of requirement	Most recent notification	Date	Period covered by notification
Agreement on Agriculture				
Article 4	Market Access	G/AG/N/ISL/30	13 January 2011	1 July 2008-30 June 2010
		G/AG/N/ISL/29	30 July 2009	1 July 2005-30 June 2008
Article 5		G/AG/N/ISL/27	27 July 2009	1 July 2003-30 June 2009
Article 10 and 18.2	Export subsidy	G/AG/N/ISL/28/Add.1	31 July 2009	2003-2008
		G/AG/N/ISL/28	27 July 2009	2003-2008
Regional Trade Agreements				
GATT Article XXIV:7(a)	Regional trade agreements	WT/REG295/N/2	21 September 2011	
		WT/REG292/N/3	16 September 2011	
		WT/REG290/N/3	6 September 2011	
		WT/REG256/N/1	3 November 2011	
		WT/REG86/N/1	14 October 2008	
		WT/REG243/N/1	18 July 2008	
Services				
Article V:7(a)		S/C/N/465	18 July 2008	

Source: WTO Secretariat.

Table II.2
Selected outstanding notifications to the WTO, as of January 2011

WTO Agreement	Description of requirement	Period
Agreement on Agriculture		
Article 4 and 18.2	Imports under tariff quotas	Annual
Article 5	Special safeguard	Annual
Article 18.2	Domestic support	Annual
Article 10 and 18.2	Export subsidies	Annual
Agreement on Government Procurement		
Article XIX.5	Statistics on procurement	Annual
	Procurement thresholds	Biennial
Agreement on Import Licensing Procedures		
Article 7.3		Annual
	Procedures for quantitative restrictions	Biennial
Market Access		
	Integrated database - tariffs	Annual
	Integrated database - imports	Annual
Agreement on Subsidies and Countervailing Measures		
Article 25.1	New and full subsidy notification	Annual

Table II.2 (cont'd)

¹¹ WTO Documents DS400 and DS401.

WTO Agreement	Description of requirement	Period
Understanding on the interpretation of Article XVII	New and full notification	Biennial
Agreement on Implementation of Article VI		
Article 16.4		Semi-annual

Source: WTO Secretariat.

(ii) Regional agreements

(a) European Free Trade Association

15. Iceland joined the European Free Trade Association (EFTA) in 1970. The other members are Liechtenstein, Norway, and Switzerland.

16. The EFTA Convention establishes a free-trade area among its members in industrial products and in fish and other marine products. It also contains disciplines on state aid, practices of public undertakings, competition rules, intellectual property rights, free movement of persons (including coordination of social security systems and mutual recognition of professional qualifications), investment, trade in services, and government procurement.

(b) European Economic Area

17. Iceland is a founding member of the European Economic Area (EEA), which also includes Liechtenstein, Norway, and the 27 member states of the EU. The EEA Agreement aims to establish an internal market for the free movement of goods, services, capital, and persons but it does not establish a common external tariff. The EEA Agreement does not cover a number of EU policy areas including: a common agriculture or fisheries policy; a customs union; a common trade policy; a common foreign and security policy; justice and home affairs; and monetary union.

18. The EEA Agreement provides for the adoption of EU laws concerning the free movement of goods, services, capital, and persons, and cooperation in areas such as research and development, education, social policy, the environment, consumer protection, tourism, and culture. Iceland has some derogations from EEA legislation, such as on veterinary issues (Chapter III(3)(iv)(b)), airport security, house heating, electricity, and waste disposal.¹²

19. The EEA Joint Committee, which is made up of representatives from Iceland, Liechtenstein, Norway, the EU Commission, and the EU member states, is responsible for taking decisions on incorporating EU legislation into the EEA Agreement. Decisions are taken by consensus and published on the EFTA website.¹³ Iceland and the other EFTA countries in the EEA are required to notify the EFTA Surveillance Authority of the transposition of EEA provisions into domestic law.

20. The EFTA Surveillance Authority is responsible for ensuring that Iceland and the other EFTA countries in the EEA comply with the requirements of the EEA Agreement. The Authority may initiate investigations on its own behalf or accept complaints from individuals on enterprises that a State is not in compliance with its obligations under the EEA Agreement. After considering the matter the Authority issues a reasoned opinion. Depending on the country's reaction to the opinion, the Surveillance Authority may then move to commence proceedings against the countries in the

¹² Bergmann (2011).

¹³ EFTA online information. Viewed at: <http://www.efta.int/> [March 2012].

EFTA Court. The Court is also responsible for investigating claims that companies are acting against EEA competition rules.

21. In November 2011, Iceland had a "transposition deficit" (the number of directives that had not been transposed into national law) of 0.5% for directives relating to the internal market, but on average transposition took nearly 13 months. As of February 2012, the Surveillance Authority was formally pursuing 41 infringement cases against Iceland (Table II.3).¹⁴

Table II.3
EFTA Surveillance Authority cases concerning Iceland, 2006-10

	2006	2007	2008	2009	2010
Pending cases ^a	156	252	223	272	189
of which complaints	..	..	19	28	33
Opened	95	237	181	138	160
of which complaints	..	..	9	21	25
Closed	119	141	210	187	148
of which complaints	..	..	5	12	20

.. Not available.

a Not all pending cases reach a conclusion as some are withdrawn.

Source: EFTA Surveillance Authority, *Annual Report*, various issues.

22. Since the start of 2005, the EFTA Surveillance Authority has referred 11 cases to the EFTA Court, one of which concerns state guarantees for banking depositors where a judgement is pending (as of end-June 2012).¹⁵ In addition, several cases have been referred to the EFTA Court by Icelandic courts for advisory opinions, including two cases on labelling of alcoholic products.¹⁶ Details of all pending and decided cases are available online.¹⁷

(c) Free-trade agreements

23. Iceland has a number of bilateral trade agreements including two with Denmark on trade with the Faroe Islands¹⁸ and Greenland, and two with the EU (an agreement from 1972, which is mostly superseded by the EEA, and an agreement on trade in basic agricultural products based on Article 19 of the EEA).¹⁹ It is also in negotiations on a trade agreement with China.

24. Through EFTA, Iceland has been actively expanding its network of trade agreements; 13 have been signed since 2005 and negotiations under way with several other countries or groups of countries. At present, through EFTA, Iceland is a party to 24 free-trade agreements covering trade with 33 countries/territories (Table II.4)²⁰.

¹⁴ EFTA Surveillance Authority (2012).

¹⁵ Case E-16/11 - EFTA Surveillance Authority v Iceland.

¹⁶ Case E-19/11 - Vín Trío ehf. v Íslenska ríkinu, and Case 2/12 - HOB-vín ehf. v Áfengis- og tóbaksverslun ríkisins.

¹⁷ EFTA Court online information. Viewed at: <http://www.eftacourt.int/> [March 2012].

¹⁸ WTO document WT/REG23/1, 23 January 1996.

¹⁹ European Commission (2011), , *Chapter 30 - External Relations*, p. 4.

²⁰ WTO online information. Viewed at: <http://rtais.wto.org/UI/PublicMaintainRTAHome.aspx> [March 2012].

Table II.4
EFTA free-trade agreements

Country/Territory	Type	Date of entry into force for Iceland
Agreements signed		
Albania	GATT Article XXIV	1 October 2011
Canada	GATT Article XXIV	1 July 2009
Chile	GATT Article XXIV, GATS Article V	1 December 2004
Colombia	GATT Article XXIV, GATS Article V	After ratification
Croatia	GATT Article XXIV	1 January 2002
Egypt	GATT Article XXIV	1 August 2007
Former Yugoslav Republic of Macedonia	GATT Article XXIV	1 January 2001
Gulf Co-operation Council (Bahrain, Kuwait, Oman, Saudi Arabia, UAE)	Not notified	Pending (signed 22 June 2009)
Hong Kong, China	Not notified	Pending (signed 21 June 2011)
Israel	GATT Article XXIV	1 January 1993
Jordan	GATT Article XXIV	1 January 2002
Korea	GATT Article XXIV, GATS Article V	1 September 2006
Lebanon	GATT Article XXIV	1 January 2007
Mexico	GATT Article XXIV, GATS Article V	1 July 2001
Montenegro	Not notified	Pending (signed 14 November 2011)
Morocco	GATT Article XXIV	1 December 1999
Peru	GATT Article XXIV	1 October 2011
SACU (Botswana, Lesotho, Namibia, South Africa, Swaziland)	GATT Article XXIV	1 May 2008
Serbia	GATT Article XXIV	1 October 2011
Singapore	GATT Article XXIV, GATS Article V	1 January 2003
Tunisia	GATT Article XXIV	1 June 2005
Turkey	GATT Article XXIV	1 April 1992
Ukraine	Not notified	1 June 2012
Palestinian Authority	GATT Article XXIV	1 July 1999
Under negotiation		
Bosnia and Herzegovina		
Costa Rica, Guatemala, Honduras, and Panama		
India		
Indonesia		
Russian Federation, Belarus, and Kazakhstan		

Source: WTO RTA Database: <http://rtais.wto.org/UI/PublicMaintainRTAHome.aspx> [March 2012]; and EFTA online information: <http://www.efta.int/free-trade/free-trade-agreements.aspx> [March 2012].

(d) Non-reciprocal arrangements

25. Under Regulation 119/2002, Iceland provides duty-free and quota-free access for imports of practically all products originating in most least developed countries.²¹

(4) FOREIGN INVESTMENT REGIME

26. Policy on investment is shared between a number of different agencies²² including:

²¹ WTO documents WT/COMTD/N/17, 10 October 2003 and WT/COMTD/N/17/Corr.1, 20 January 2004. Senegal and Timor-Leste are not included in Regulation No. 119/2002.

- the Ministry of Finance, which is responsible for setting tax rates and negotiating double tax agreements, and the Ministry of Economic Affairs, which is responsible for policy on foreign investment as well as competition law and company law and which monitors the Competition Authority and the Financial Supervisory Authority. From September 2012, the Ministry of Finance will assume some of the responsibilities of the Ministry of Economic Affairs (section (2)(i));
- the Ministry of Industry, Energy and Tourism, which is responsible for legislation on investment, and the Ministry of Fisheries and Agriculture, which is responsible for legislation and investment in fisheries and agriculture. From September 2012, the two ministries will be merged into the Ministry of Industries and Innovation (section (2)(i));
- the Ministry for Foreign Affairs, which is responsible for external trade and negotiating trade agreements (through EFTA); and
- promote Iceland agency, which has overall responsibility for promoting Iceland's image and reputation abroad, including by supporting Icelandic industries and products in foreign markets, as a tourist destination, and an investment centre. Invest in Iceland, which is part of Promote Iceland, is an information centre for foreign investors and runs the Film in Iceland Agency project. Invest in Iceland does not charge for its services.

27. In general, the main objective of Iceland's investment policy is to provide a favourable climate for investment, through Iceland's access to the EEA market, low tax rates, liberal investment policies, and a stable business environment with few restrictions on foreign ownership. The main legislation on foreign investment is Act No. 34/1991 (as amended) on Investment by Non-residents in Business Enterprises²³, and Act No. 99/2010 on Incentives for Initial Investment in Iceland (Chapter III(3)(iii)).

28. Restrictions on foreign ownership have not been changed since the last Review of Iceland. With exceptions, foreigners must obtain a permit from the Ministry of the Interior to own real estate in Iceland. These exceptions include foreigners resident in Iceland, citizens of other EFTA or EU countries, and enterprises resident in or with their headquarters or main operations in other EFTA or EU countries.

29. Iceland maintains various sector-specific investment restrictions, including in fishing (Chapter IV(2)), energy (Chapter IV(3)), and air transport (Chapter IV(4)(iii)).

30. Iceland has bilateral investment treaties with Chile, China, Egypt, India, Latvia, Lithuania, Lebanon, Mexico, Uganda, and Viet Nam. In addition, along with Liechtenstein and Switzerland within the EFTA framework, Iceland has signed a multilateral investment agreement with the Republic of Korea. The EFTA-Singapore free-trade agreement includes a chapter on investment. Seven of the bilateral agreements have entered into force and two agreements, with Egypt and Lebanon, are in the process of ratification. The agreement with Uganda has been initialled, but not signed. Iceland is in contact with the authorities in Turkey and Ukraine regarding talks on a bilateral investment treaty.

²² The number of ministries is to be reduced from ten to eight in September 2012 (see section (2)(i)).

²³ Act No. 34/1991 (in English). Viewed at: <http://eng.idnadarraduneyti.is/laws-and-regulations/nr/1129> [March 2012].

31. Iceland made 32 agreements on double taxation, some awaiting ratification. It has been a party to the Agreement between the Council of Europe and OECD on Mutual Administrative Assistance in tax matters since 1995; and it signed the Protocol on Exchange of Banking Information in 2010 (entered into force in 2011). Through the Nordic Council of Ministers, Iceland has several agreements on information exchange in tax matters with states with low taxes and bank secrecy. It aims to have signed agreements with all such states (as specified by OECD) before the end of 2012.