Event No: 395099
Ref. No: 60867
Dec. No.: 410/06/COL

EFTA SURVEILLANCE AUTHORITY DECISION
OF 19 DECEMBER 2006
ON A REGIONAL RISK-LOAN SCHEME
(NORWAY)

THE EFTA SURVEILLANCE AUTHORITY[1],

HAVING REGARD TO the Agreement on the European Economic Area[2], in particular to Articles 61 to 63 and Protocol 26 thereof,

HAVING REGARD TO the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice[3], in particular to Article 24 and Article 1 in Part I of Protocol 3 thereof,

HAVING REGARD TO the Authority's Guidelines[4] on the application and interpretation of Articles 61 and 62 of the EEA Agreement, and in particular Chapter 25B, "National Regional Aid 2007-2013", thereof,

HAVING REGARD TO the Authority's Decision 226/06/COL of 19 July 2006 on the map of assisted areas and levels of aid (Norway)[5],

WHEREAS:

I. FACTS

1 Procedure

By letter of 7 November 2006 from the Ministry of Government Administration and Reform, forwarding a letter from the Ministry of Local Government and Regional Development dated 6 November 2006, both received and registered by the Authority on 7 November 2006 (Event No 397274), the Norwegian authorities notified, pursuant to Article 1(3) in Part I of Protocol 3 to the Surveillance and Court Agreement, the implementation of a regional development grant scheme for the period from 1 January 2007 to 31 December 2013.

[1] Hereinafter referred to as the "Authority".
[2] Hereinafter referred to as the "EEA Agreement".
[3] Hereinafter referred to as the "Surveillance and Court Agreement".
[4] Procedural and Substantive Rules in the Field of State Aid - Guidelines on the application and interpretation of Articles 61 and 62 of the EEA Agreement and Article 1 of Protocol 3 to the Surveillance and Court Agreement, adopted and issued by the EFTA Surveillance Authority on 19 January 1994, published in OJ 1994 L 231, EEA Supplements 03.09.94 No. 32, last amended by the Authority's Decision of 13 December 2006, hereinafter referred to as the "State Aid Guidelines".
[5] The state aid decisions of the Authority can be found at our website: www.eftasurv.int.

By letter from the Ministry of Government Administration and Reform dated 23 November 2006, forwarding a letter from the Ministry of Local Government and Regional Development dated 22 November 2006 (Event No 399805), the Norwegian authorities withdrew the parts of the notification not relating to regional risk-loans.

By letter dated 24 November 2006 (Event No 398507), the Authority requested further information concerning the scheme. The Norwegian authorities supplied the requested information by letter from the Ministry of Government Administration and Reform, forwarding a letter from the Ministry of Local Government and Regional Development, both dated 1 December 2006 (Event No 401213).

2 Background

By letter of 6 April 2006 from the Authority to the Norwegian Mission to the European Union, the Norwegian authorities were informed that the Authority had adopted new guidelines on national regional aid for 2007 – 2013 in the form of a new Chapter 25B of the State Aid Guidelines.

Furthermore, the Authority proposed, under Article 1(1) in Part I of Protocol 3 to the Surveillance and Court Agreement, that the Norwegian authorities accept the appropriate measures set out in Chapter 25B.8 of the State Aid Guidelines[6]. According to the appropriate measures, the EFTA States were, *inter alia*, obliged to limit the duration of all regional aid schemes in force at the time of the entry into force of the Regional Aid Guidelines to 31 December 2006.

By letter of 10 May 2006 from the Mission of Norway to the European Union, received and registered by the Authority on 11 May 2006, the Norwegian authorities accepted the appropriate measures.

By letter of 12 June 2006 from the Ministry of Government Administration and Reform, received and registered by the Authority on 12 June 2006, the Norwegian authorities notified, pursuant to Article 1(3) in Part I of Protocol 3 to the Surveillance and Court Agreement, a new map of assisted areas and levels of aid in Norway to be applicable from 1 January 2007 to 31 December 2013.

The new regional aid map for Norway was approved by the Authority by Decision 226/06/COL of 19 July 2006 on the map of assisted areas and levels of aid (Norway).

3 Description of the proposed measure

3.1 History and general description of the scheme

The regional risk-loan scheme predates the EEA Agreement[7]. The scheme forms part of a larger package composed of various measures aimed, in general, at promoting regional development in Norway. According to the Norwegian authorities, the only scheme in this package requiring notification, according to the appropriate measures of the Regional Aid Guidelines, is the regional risk-loan scheme. The other measures in the package are either

[6] Cf. paragraph (92) of Section 25B.8 of the Regional Aid Guidelines.
[7] Cf. former case 93-145.

not to be regarded as regional aid measures, as they have been declared compatible with the state aid provisions of the EEA Agreement on the basis of guidelines other than the former guidelines on regional aid[8], or they are covered by group exemption regulations[9].

The scheme concerning risk-loans for regional investments is designed, according to the notification, to promote economic development in regions covered by the regional aid map for Norway by supporting investment and job creation. It is aimed at promoting the expansion and diversification of the economic activities of the enterprises located in these regions, in particular by encouraging firms to start activity in these regions. To this effect, regional aid in the form of risk-loans can be granted for investment aid for regional development in the regions.

3.2 National legal basis for the aid measure

The national legal basis for the granting of regional investment aid can be found in the draft Regulation on investment aid etc (*Utkast til forskrift om geografisk virkeområde og bruk av dei regional- og distriktspolitiske verkemidla*).

The administration of the scheme will be handled by Innovation Norway according to the rules laid down in the Act of 19 December 2003 No 130 on Innovation Norway (*Lov av 19. desember 2003 nr 130 om Innovasjon Norge*).

3.3 The objective of the aid measure

According to the notification, the scheme shall contribute to the objective of preserving the main pattern of settlement and release the value adding potential in all parts of Norway. The aim of the aid scheme is to promote economic development in disadvantaged regions by providing undertakings an incentive to invest in the regions covered by the scheme. Furthermore, the scheme is intended to stimulate increased private sector investments in research, development and innovation in the regions covered by the scheme.

3.4 Geographical delimitation of the scheme

The scheme will be implemented in the area eligible for national regional aid for the period of 2007-2013 as defined in the Authority's Decision 226/06/COL.

3.5 Eligible applicants

The regional risk-loan scheme applies to undertakings located in regions eligible for assistance under Article 61(3)(c) of the EEA Agreement, cf. Section 3.4 above.

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[8] These measures are based on Chapter 24B of the State Aid Guidelines on state aid to shipbuilding and on Chapter 14 of the State Aid Guidelines on aid for research and development.

[9] The group exemption regulations applying to these measures are Commission Regulation (EC) No 70/2001 of 12 January 2001 on the application of Articles 87 and 88 of the EC Treaty to State aid to small and medium-sized enterprises, Commission Regulation (EC) No 68/2001 of 12 January 2001 on the application of Articles 87 and 88 of the EC Treaty to training aid and Commission Regulation (EC) No 1628/2006 of 24 October 2006 on the application of Articles 87 and 88 of the Treaty to national regional investment aid. The group exemption regulations for SMEs and training were taken into Annex XV of the EEA Agreement by Joint Committee Decision No 88/2002. The group exemption regulation on regional aid was taken into Annex XV of the EEA Agreement by Joint Committee Decision No 157/2006. Concerning the exemption from the notification obligation for group exempted regional aid, cf. paragraph (11) of Section 25B.2 of the Regional Aid Guidelines.

The scheme applies to large firms as well as small and medium-seized enterprises (SMEs)[10] and is not sector specific. The Norwegian authorities have estimated the number of beneficiaries under the scheme to be more than 1000 undertakings.

The scheme applies to the transport sector, but has a provision stating that transport equipment (movable assets) is excluded from the eligible investment expenditure. The scheme does not apply to the steel sector or to the synthetic fibres sector.

Assistance for firms in difficulty and/or for the financial restructuring of firms in difficulty is not excluded from the scheme, but the Norwegian authorities have undertaken to ensure that aid to investment granted to a large or medium-sized enterprise during the restructuring period will always be notified individually and will be in line with Chapter 16 of the State Aid Guidelines[11].

3.6 Form of aid

The scheme covers initial investment aid, understood as investment in material and immaterial assets relating to:

- the setting-up of a new establishment;
- the extension of an existing establishment;
- the starting-up of a new activity involving a fundamental change in the product or production process of an existing establishment (through rationalisation, diversification or modernisation); and
- the purchase of an establishment which has closed or which would have closed had it not been purchased.

According to the notification, replacement investment is excluded from the scheme.

The standard conditions set out in the letter approving the undertaking's application for aid under the scheme require that the investment must be maintained for a minimum period of five years. The undertakings must accept and sign this condition.

The scheme contains a clause stipulating that the aid recipient must make a minimum contribution, exempt of any aid, of at least 25% of the total investment.

The aid is calculated either in reference to material and immaterial investment costs resulting from the initial investment project or to (estimated) wage costs for jobs directly created by the investment project.

According to the notification, aid under the scheme will be granted as risk-loans.

The Norwegian authorities have submitted, as part of the notification, a method for calculating the aid element in loans with funds to cover losses. The same method was applied under the temporary regional loan scheme, approved by the Authority by Decision 185/03/COL of 22 October 2003.

[10] Norwegian authorities have confirmed that SMEs under the scheme will be defined in accordance with Chapter 10 of the Authority's State Aid Guidelines and Commission Regulation (EC) No 70/2001 of 12 January 2001 on the application of Articles 87 and 88 of the EC Treaty to State aid to small and medium-sized enterprises.

[11] Aid for rescuing and restructuring firms in difficulty.

The method is based on a calculation of the difference between estimated losses on the loans as would emerge in cases of default and estimated incomes generated from the interest rates charged.

A surplus or a deficit (X) for each loan is calculated in this way:

X = ((Risk of default[12]) * Kt[13]) — ((Re[14] —Rr[15]) * K1[16])) * LKR[17]

Determination of the interest rate attached to a loan takes as a starting point the reference rate of interest established by the Authority according to Section 3 of Chapter 34 of the Authority's State Aid Guidelines. Costs of administration are added to this rate when determining the rate under the scheme. The reference rate of interest can be considered as a floor rate for loans with very low risks attached. To take account of risks related to the loans granted, the actual interest rate charged is set higher than the reference rate. The minimum interest rate for risk-loans under the scheme today is 6.4%, but the rate will vary according to fluctuations in the financial market. The risk premium thus charged may, however, not be sufficient to cover the full risks of the loans. In cases of default it may therefore be necessary to draw on the allocated loss fund. The loss fund amounts to approximately 30% of the value of the loans provided.

Before aid is granted under the scheme, an assessment of the risk of default is carried out. Based on historical experience and assessment of each project at hand, Innovation Norway estimates a risk of default expressed in percentage terms. This percentage multiplied with the amount of a loan expresses an estimated loss. Any aid is determined as the difference between this estimated loss and the estimated revenue stemming from the risk premium charged on the same loan, all amounts expressed in present value terms. If the revenue generated by the risk premium is higher than or equal to the estimated loss ($X \leq 0$), there is no aid involved. If the estimated loss is higher than the revenue ($X > 0$), aid is involved.

The maximum duration of the loans under the scheme will be 15 years. The maximum amount of the risk-loan as a percentage of the eligible investment will be 50%. The maximum grace period for loans granted under the scheme will be 2 years.

3.7 Eligible expenses

According to the notification, the eligible expenses for tangible investments are, in general, the following:

- expenditures for initial investments in land, buildings and plant/machinery;
- in the case of an acquisition of assets directly linked to an establishment[18], the costs of buying assets;

[12] Risk of default: The percentage is estimated for each loan. The percentage is derived from the combination of the level of risk involved in the running of the business and the collateral risk.
[13] Kt: A correcting factor concerning expected losses (to correct the net present value of expected losses (based on historical losses) to be calculated on the basis of the reference rate of interest).
[14] Re: The effective rate of interest.
[15] Rr: Reference rate of interest determined by the ESA.
[16] K1: A correcting factor for interest differential. Net present value of the term of the loan.
[17] LKR: The amount of loan provided.
[18] Cf. paragraph (27) of Section 25B.4 of the Regional Aid Guidelines.

- costs related to the acquisition of assets other than land and buildings under lease, if the lease takes the form of financial leasing and contains an obligation to purchase the assets at the expiry of the term of the lease[19];
- only acquisition of new assets are eligible, except in the case of SMEs and takeovers[20].

For intangible investments the following costs are eligible:

- the full costs of investments in intangible assets by the transfer of technology through the acquisition of patent rights, licences, know-how or unpatented technical knowledge for SMEs. For large companies, such costs are eligible only up to a limit of 50% of the total eligible investment expenditure for the project.

The scheme furthermore provides guarantees that eligible assets will be used exclusively in the establishment receiving the aid, that the eligible assets must be regarded as amortizable assets and that they are purchased from third parties under market conditions.

As concerns aid for job creation, the scheme, according to the notification, provides guarantees that, in the case of aid for job creation linked to initial investment, aid for job creation is linked to the carrying-out of an initial investment project. The scheme furthermore requires guarantees that the jobs will be created within three years of the investment completion.

If the investment does not relate to the setting-up of a new establishment, the reference period for calculating the number of jobs created is the 12-month period before the projects started.

The measure requires guarantees that job creation means a net increase in the number of jobs in a particular establishment compared to the average over a period of time and that jobs lost during the period of reference are being deducted from the apparent number of jobs created during the same period. Aid will be calculated on the basis of a percentage of the wage costs per job created. The parameters used in order to calculate the aid intensity will be the aid in percent of the total wage costs of the jobs created for a period of two years.

3.8 Aid for large investment projects/newly created small enterprises

Aid under the scheme may be granted to large investment projects. The Norwegian authorities have committed themselves to ensure that such aid will be granted in accordance with paragraphs (49) to (59) of Section 25B.4.3 of the Regional Aid Guidelines.

Aid for newly created small enterprises according to paragraphs (73) to (80) of Section 25B.6 of the Regional Aid Guidelines is not covered by the scheme.

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[19] For the lease of land and buildings, the lease must continue for at least five years after the anticipated date of the completion of the investment project for large companies, and three years for SMEs.
[20] Assets for whose acquisition aid has already been granted prior to the purchase are deducted.

3.9 Aid ceilings

The aid intensities to be applied under the scheme are 15% gross for large enterprises, 25% gross for medium-sized enterprises and 35% gross for small enterprises.

3.10 Incentive effect

The scheme provides that any application for aid must be submitted before work is started on the project. According to the notification, the risk-loan will not be paid out until the project has been carried out and a specified account for the project is worked out showing that the costs are in accordance with the application and approved by an external auditor.

3.11 Cumulation

Innovation Norway, as the granting authority, is responsible for ensuring that cumulation of aid under the scheme and other aid measures do not imply that maximum aid intensities are exceeded. All applications under the scheme shall include a financial plan giving information *inter alia* on other public financing granted to the project. The applicants are obliged to inform Innovation Norway if they receive aid from other public sources concerning the same project.

Aid under the scheme may not be cumulated with *de minimis* aid for the same eligible expenses if this implies that the maximum aid intensities are exceeded.

3.12 Budget and duration

The scheme will be funded both through the State budget and through allocations from the County municipalities. The estimated value of the loans granted annually is NOK 300 million (approximately EUR 38 million). This implies a yearly allocation to the loss fund of approximately NOK 100 million (approximately EUR 13 million).

The scheme is notified for the duration of the Regional Aid Guidelines, from 1 January 2007 to 31 December 2013.

3.13 Application procedure and administration of the scheme

The scheme will have an open application process and will be announced nationally. Aid under the scheme will only be granted upon application from undertakings. As mentioned above, the scheme provides that any application for aid must be submitted before work is started on the project.

According to the notification, the main criterion for the selection of beneficiaries will be the individual project's potential as concerns positive externalities in relation to regional economic development, research, development and innovation and its contribution with regard to new, profitable and competitive products, services, production methods and markets. Applications for grants under the scheme should include a detailed project description, which will be assessed by Innovation Norway.

The scheme will be administered by Innovation Norway. Innovation Norway decides on whether undertakings applying for aid under the scheme should be granted aid or not. In this regard, Innovation Norway will be responsible for ensuring the quality of the projects, that aid is granted according to the rules applicable for the different measures under the scheme and that other requirements are met.

II. APPRECIATION

1 The presence of State aid

1.1 State aid within the meaning of Article 61(1) EEA

Article 61(1) of the EEA Agreement reads as follows:

"Save as otherwise provided in this Agreement, any aid granted by EC Member States, EFTA States or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Contracting Parties, be incompatible with the functioning of this Agreement."

The notified aid is being funded by State resources in the form of budget allocations and will favour certain undertakings in designated regions by relieving them of investment costs that they would normally have to bear themselves. The Authority notes that, for the operator of the scheme, a special loss fund has been provided by a direct grant from the fiscal budget. State resources are thus involved. The scheme is furthermore selective as only undertakings located in certain regions in Norway eligible for assistance under Article 61(3)(c) of the EEA Agreement can receive aid under the scheme. Consequently, the aid strengthens the position of the beneficiaries in relation to their actual or potential competitors in the EEA, thus having an actual or potential distorting effect on competition within the EEA. In the eligible regions, the scheme applies to all sectors, and it cannot be excluded that in some of these sectors there is competition between the aid beneficiaries and undertakings in other EEA States. Hence, the scheme constitutes state aid in the meaning of Article 61(1) of the EEA Agreement.

1.2 New aid

According to Article 2(1) in Part II of Protocol 3 to the Surveillance and Court Agreement, "*any plans to grant new aid shall be notified to the EFTA Surveillance Authority*".

It follows from Article 1(3)(c) in Part II of Protocol 3 to the Surveillance and Court Agreement that "*new aid shall mean all aid, that is to say, aid schemes and individual aid, which is not existing aid, including alterations to existing aid*".

Existing aid is defined in Article 1(3)(b) in Part II of Protocol 3 to the Surveillance and Court Agreement. According to paragraph (i) of this Article, existing aid is, *inter alia*, "*all aid which existed prior to the entry into force of the EEA Agreement in the respective EEA States*".

As stated in Section I.3.1 above, the regional risk-loan scheme predates the EEA Agreement. However, the scheme can still not be qualified as existing aid as the appropriate measures of the Regional Aid Guidelines state that the EFTA States were obliged to limit the duration of all regional aid schemes in force at the time of the entry into force of the Regional Aid Guidelines on 31 December 2006. These appropriate measures were accepted by Norway.

Furthermore, the notification implies that the area covered by the notified scheme will be extended in relation to the area covered by the risk-loan scheme in force until the end of 2006. In addition, the aid intensities that apply to aid granted under the notified scheme are increased compared with the aid intensities under the former scheme.

This implies that the present regional risk-loan scheme expires by the end of 2006. The notified regional risk-loan scheme for the period of 2007 to 2013 must therefore be regarded as new aid according to the definitions in Article 1(3) in Part II of Protocol 3 to the Surveillance and Court Agreement. Hence, the scheme requires a notification to the Authority on the basis of the obligation set out in Article 2(1) in Part II of Protocol 3 to the Surveillance and Court Agreement.

2 Procedural requirements

Pursuant to Article 1(3) in Part I of Protocol 3 to the Surveillance and Court Agreement, "*the EFTA Surveillance Authority shall be informed, in sufficient time to enable it to submit its comments, of any plans to grant or alter aid (…). The State concerned shall not put its proposed measures into effect until the procedure has resulted in a final decision*".

By submitting notification for the regional risk-loan scheme by letter dated 7 November 2006 and by not implementing the scheme until the approval by the Authority, the Norwegian authorities have complied with the notification and stand-still requirement in Article 1(3) in Part I of Protocol 3 to the Surveillance and Court Agreement.

The Authority can therefore conclude that the Norwegian Government has respected its obligations pursuant to Article 1(3) in Part I of Protocol 3 to the Surveillance and Court Agreement.

3 Compatibility assessment

3.1 Introduction

The Authority has assessed the compatibility of the proposed regional risk-loan scheme with Article 61(3)(c) of the EEA Agreement and in light of the Regional Aid Guidelines. Article 61(3)(c) of the EEA Agreement concerns aid to facilitate the development of certain economic activities, where such aid does not adversely affect trading conditions to an extent contrary to the interest of the Contracting Parties to the EEA Agreement, as compatible with the EEA Agreement. Aid granted for regional development is assessed under Chapter 25B of the Authority's State Aid Guidelines.

3.2 Eligible applicants

The regional risk-loan scheme applies to undertakings located in regions eligible for assistance under Article 61(3)(c) of the EEA Agreement. This implies that the scheme will be implemented in the area eligible for national regional aid for the period of 2007-2013 as defined in the Authority's Decision 226/06/COL. The geographical coverage of the scheme is in accordance with Section 25B.3 of the Regional Aid Guidelines.

The regional risk-loan scheme applies to large firms as well as SMEs and is designed to promote economic development in regions covered by the regional aid map for Norway by supporting investment and job creation. The scheme is not sector specific, and complies with the provision in paragraph (10) of Section 25B.2 of the Regional Aid Guidelines, whereby regional aid should be granted under a multi-sectoral aid scheme, which forms an integral part of a regional development strategy with clearly defined objectives.

The Norwegian authorities have given assurance that the scheme complies with paragraph (8) of Section 25B.2 of the Regional Aid Guidelines. The scheme does not, hence, apply to the steel sector or to the synthetic fibres sectors.

Assistance for firms in difficulty and/or for the financial restructuring of firms in difficulty is not excluded, but the Norwegian authorities have undertaken to ensure that aid to investment granted to medium-sized or large enterprises during the restructuring period will be in accordance with Chapter 16 of the State Aid Guidelines[21] and notified individually to the Authority. This is in line with paragraph (9) of Section 25B.2 of the Regional Aid Guidelines.

3.3 Form of aid

The scheme covers initial investment aid according to the definition in paragraphs (26) and (27) of Section 25B4.1.1 of the Regional Aid Guidelines. On this basis, replacement investment is excluded from the scheme.

The aid is calculated either in reference to material and immaterial investment costs resulting from the initial investment project or to (estimated) wage costs for jobs directly created by the investment project, cf. paragraph (28) of Section 25B.4.1.1 of the Regional Aid Guidelines.

In accordance with paragraph (31) of Section 25B.4.1.1. of the Regional Aid Guidelines, the scheme contains a clause stipulating that the aid recipient must make a minimum contribution, exempt of any aid, of at least 25% of the total investment.

In line with paragraph (32) of Section 25B.4.1.1 of the Regional Aid Guidelines, according to the standard conditions set out in the letter approving the undertaking's application for aid under the scheme, the aid is made conditional on the maintenance of the investment in the region concerned for a minimum period of at least five years after its completion[22]. Where the aid is calculated on the basis of wage costs, the posts must be filled within three years of the completion of the works, cf. paragraph (32) of Section 25B.4.1.1 of the Regional Aid Guidelines. Each of the jobs created through the investment must be maintained within the region concerned for a period of five years from the date the post was first filled[23], cf. paragraph (32) of Section 25B.4.1.1 of the Regional Aid Guidelines.

The form of aid notified under the scheme is risk-loans, covered by paragraph (29) of Section 25B4.1.1 of the Regional Aid Guidelines. The maximum duration of the loans under the scheme will be 15 years. The maximum amount of the risk-loan as a percentage

[21] Aid for rescuing and restructuring firms in difficulty.
[22] For certain information and communication technology equipment, the period required will however be three years, as the value of such equipment is outdated after a relatively short period.
[23] In the case of SMEs, these five-year periods may be reduced to a minimum of three years.

of the eligible investment will be 50%. The maximum grace period for loans granted under the scheme will be 2 years.

The Norwegian authorities have submitted a method for calculating the aid element in loans with funds to cover losses, cf. Section I.3.5 above. The same method was applied under the temporary regional loan scheme, approved by the Authority by Decision 185/03/COL of 22 October 2003.

The Authority considers it appropriate to take the risk of default into consideration when assessing the aid elements in risk-loan schemes where funds have been granted to cover losses. The Authority notes that the aid element calculated for each loan takes into account the estimated loss based on an assessment of default. To arrive at the amount of aid the estimated revenue generated by the added risk premium charged on the loans is deducted from the estimated loss. As the risk premium is a charge paid by borrowers to cover partly or wholly the risk attached to the loan, it is appropriate to deduct that amount from the estimated loss. In assessing the case at hand the Authority has found the way of calculating the amount of aid satisfactory.

3.4 Eligible expenses

3.4.1 Aid calculated on the basis of investment costs

Expenditures on land, buildings and plant/machinery[24] are eligible for aid for initial investment, cf. paragraph (39) of Section 25B.4.2.1 of the Regional Aid Guidelines.

In the event of an acquisition of assets directly linked to an establishment as referred to in paragraph (27) of Section 25B.4.1.1 of the Regional Aid Guidelines, only the costs of buying assets[25] from third parties are taken into consideration[26]. The transaction must take place under market conditions, cf. paragraph (41) of Section 25B.4.2.1 of the Regional Aid Guidelines.

Costs related to the acquisition of assets other than land and buildings under lease are taken into consideration if the lease takes the form of financial leasing and contains an obligation to purchase the asset at the expiry of the term of the lease. For the lease of land and buildings, the lease must continue for at least five years after the anticipated date of the completion of the investment project for large companies, and three years for SMEs, cf. paragraph (42) of Section 25B.4.2.1 of the Regional Aid Guidelines.

Except in the case of SMEs and takeovers, the assets acquired must be new. In the case of takeovers, assets for whose acquisition aid has already been granted prior to the purchase will be deducted, cf. paragraph (43) of Section 25B.4.2.1 of the Regional Aid Guidelines.

For SMEs, the full costs of investments in intangible assets by the transfer of technology through the acquisition of patent rights, licenses, know-how or unpatented technical knowledge may be taken into consideration. For large companies, such costs will be

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[24] Transport equipment (movable assets) are excluded from the eligible investment expenditure under the scheme.

[25] Where the acquisition is accompanied by other initial investment, the expenditure relating to the latter should be added to the cost of the purchase.

[26] In exceptional cases, the aid may alternatively be calculated by reference to the (estimated) wage costs for the jobs safeguarded or newly created by the acquisition. These cases have to be individually notified to the Authority.

eligible only up to a limit of 50% of the total eligible investment expenditure for the project, cf. paragraph (44) of Section 25B.4.2.1 of the Regional Aid Guidelines.

Eligible intangible assets will be subject to the necessary conditions for ensuring that they remain associated with the recipient region eligible for the regional aid and, consequently, that they are not the subject of a transfer benefiting other regions, especially other regions not eligible for regional aid. To this end, the scheme contains provisions which guarantee that eligible intangible assets, in accordance with paragraph (45) of Section 25B.4.2.1 of the Regional Aid Guidelines, will satisfy the following conditions:

- they must be used exclusively in the establishment receiving the regional aid;
- they must be regarded as amortizable assets;
- they must be purchased from third parties under market conditions;
- they must be included in the assets of the firm and remain in the establishment receiving the regional aid for at least five years (three years for SMEs).

3.4.2 Aid calculated on the basis of wage costs

As stated in Section II.3.3 above, aid under the scheme may also be calculated on the basis of estimated wage costs[27], cf. paragraph (46) of Section 25B.4.2.2 of the Regional Aid Guidelines.

Aid under the scheme will only be granted to job creation as a result of an initial investment project. The scheme complies with paragraph (47) of Section 25B.4.2.2 of the Regional Aid Guidelines, whereby job creation means a net increase in the number of employees directly employed in a particular establishment compared with the average over the previous 12 months[28]. Any jobs lost during that 12-month period will be deducted from the apparent number of jobs created during the same period.

In line with paragraph (48) of Section 25B.4.2.2 of the Regional Aid Guidelines, the amount of aid will not exceed a certain percentage of the wage cost of the person hired, calculated over a period of two years. The percentage is equal to the intensity allowed for investment aid in the area in question.

3.5 Aid for large investment projects

Aid under the scheme may be granted to large investment projects. The Norwegian authorities have committed to ensure that such aid will be granted in accordance with paragraphs (49) to (59) of Section 25B.4.3 of the Regional Aid Guidelines.

3.6 Aid ceilings

The aid element for projects which are granted aid under the scheme will depend on the risk assessment carried out by Innovation Norway, as shown in Section I.3.6 above. The aid element for each loan must not exceed the following aid ceilings:

- 15% gross for large enterprises;

[27] According to footnote 43 to paragraph (46) of Section 25B.4.2.2 of the Regional Aid guidelines, the wage cost means the total amount actually payable by the beneficiary of the aid in respect of the employment concerned, comprising the gross wage, before tax, and the compulsory social security contributions.

[28] The number of employees is defined in footnote 44 to paragraph (47) of Section 25B.4.2.2 of the Regional Aid Guidelines as the number of annual labour units, namely the number of persons employed full time in one year, part-time and seasonal work being ALU (Annual Labour Units) fractions.

- 25% gross for medium-sized enterprises; and
- 35% gross for small enterprises.

These maximum aid intensities are in line with paragraph (37) of Section 25B.4.1.2 and paragraph (38) of Section 25B4.1.3 of the Regional Aid Guidelines.

3.7 Incentive effect

In order to ensure the incentive effect of the aid, the scheme provides that any application for aid must be submitted before work is started on the projects, cf. paragraph (30) of Section 25B4.1.1 of the Regional Aid Guidelines. According to the notification, the risk-loan will not be paid out until the project has been carried out and a specified account for the project is worked out showing that the costs are in accordance with the application and approved by an external auditor. It follows from paragraph (30) of Section 25B.4.1.1 of the Regional Aid Guidelines that if this condition is not complied with, the whole project will not be eligible for aid.

3.8 Cumulation

The Norwegian authorities have committed to ensuring that the rules on cumulation of the Regional Aid Guidelines will be respected.

Innovation Norway, as the granting authority, is responsible for ensuring that cumulation of aid under the scheme and other aid measures does not imply that maximum aid intensities are exceeded. All applications under the scheme shall include a financial plan giving information *inter alia* on other public financing granted to the project. The applicants are obliged to inform Innovation Norway if they receive aid from other public sources concerning the same project.

Aid under the scheme may not be cumulated with *de minimis* aid for the same eligible expenses if this implies that the maximum aid intensities are exceeded.

4 Conclusion

The Authority concludes that the notified regional risk-loan scheme constitutes state aid within the meaning of Article 61(1) of the EEA Agreement, but does not raise doubts as to the compatibility with the EEA Agreement. The Authority has accordingly decided that the aid is compatible with Article 61(3)(c) of the EEA Agreement read in conjunction with the Regional Aid Guidelines.

The Norwegian authorities are reminded that they must provide the Authority with a report on the implementation of the aid annually and that any changes in the modalities of the scheme have to be notified.

HAS ADOPTED THIS DECISION:

1. The EFTA Surveillance Authority has decided not to raise objections to the notified regional risk-loan scheme for the period of 2007-2013.

2. This Decision is addressed to the Kingdom of Norway.

3. This Decision is authentic in the English language.

Done at Brussels, 19 December 2006

For the EFTA Surveillance Authority

Bjørn T. Grydeland President	Kristján A. Stefánsson College Member