

Event No: 363351  
Case No: 59434  
Decision No: 216/06/COL

EFTA SURVEILLANCE AUTHORITY DECISION  
OF 5 JULY 2006  
ON AN AID SCHEME FOR RESEARCH, DEVELOPMENT AND INNOVATION IN  
THE MARITIME INDUSTRY

(NORWAY)

THE EFTA SURVEILLANCE AUTHORITY<sup>1</sup>,

Having regard to the Agreement on the European Economic Area<sup>2</sup>, 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<sup>3</sup>, in particular to Article 24 and Article 1 in Part I of Protocol 3 thereof,

Having regard to the Authority's Guidelines<sup>4</sup> on the application and interpretation of Articles 61 and 62 of the EEA Agreement, and in particular Chapter 14 on "Aid for research and development"<sup>5</sup> and Chapter 24B on "State aid to shipbuilding"<sup>6</sup>,

WHEREAS:

## I. FACTS

### 1. Procedure

By letter dated 7 February 2006 from the Ministry of Government Administration and Reform forwarding a letter from the Ministry of Trade and Industry dated 2 February 2006, both received and registered by the Authority on 7 February 2006 (Event Nos

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<sup>1</sup> Hereinafter referred to as the "Authority".

<sup>2</sup> Hereinafter referred to as the "EEA Agreement".

<sup>3</sup> Hereinafter referred to as the "Surveillance and Court Agreement".

<sup>4</sup> 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 19 April 2006, hereinafter referred to as the "State Aid Guidelines". The State Aid Guidelines are available on <http://www.eftasurv.int>.

<sup>5</sup> Hereinafter referred to as the "R&D Guidelines".

<sup>6</sup> Hereinafter referred to as the "Shipbuilding Guidelines".

361798 and 361799), the Norwegian authorities notified, pursuant to Article 1(3) in Part I of Protocol 3 to the Surveillance and Court Agreement, an aid scheme for research, development and innovation in the maritime industry (Maritime RDI).

By letter dated 7 April 2006, the Authority requested further information on the aid scheme. The Norwegian authorities replied to the information request by letter from the Ministry of Government Administration and Reform dated 10 May 2006 forwarding a letter from the Ministry of Trade and Industry dated 10 May 2006, both received and registered by the Authority on 11 May 2006 (Events Nos 373776 and 373778).

By letter dated 20 June 2006, the Authority requested additional information. The Norwegian authorities replied by letter from the Ministry of Government Administration and Reform dated 26 June 2006 forwarding a letter from the Ministry of Trade and Industry dated 26 June 2006, both received and registered by the Authority on 28 June 2006 (Event No 379581).

## **2. Description of the proposed measure**

### **2.1 General description of the scheme**

#### **2.1.1 The objective of the scheme**

According to the notification, the objective of the scheme is to strengthen the competitiveness and increase the value added in the maritime industry by stimulating research, development and innovation<sup>7</sup> in the industry. More specifically, the scheme has the following objectives:

- To contribute to increasing the overall understanding of the importance of RDI for long-term competitiveness in the maritime industry;
- To promote the development of maritime networks and partnerships;
- To support projects that have the potential for commercial success concerning new products, services or production processes; and
- To support projects that may contribute to the development of a competitive and innovative maritime industry on a local, regional or national basis.

#### **2.1.2 Legal basis**

The legal basis of the scheme can be found in *St.prp. nr. 1 (2005-2006) Nærings- og handelsdepartementet* (the state budget for 2006, Ministry of Trade and Industry), Chapter 2421, Section 79 and in the Mission Statement for Innovation Norway for 2006.

#### **2.1.3 Budget and duration**

The budget of the scheme for 2006 is NOK 20 million (approximately EUR 2.6 million). Annual budgets for the following years will be subject to annual parliamentary budget procedures. The Authority will be informed if the budget of the scheme is increased beyond 20 %.

The duration of the scheme is six years, from 2006 to 2011.

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<sup>7</sup> Hereinafter referred to as “RDI”.

#### 2.1.4 Form of aid

The aid is granted in the form of non-refundable direct grants.

#### 2.1.5 Eligible applicants – general conditions

According to the notification, innovation tends to occur within groups of undertakings. This is reflected in the aims of the scheme, where it is stated that the scheme shall promote the development of maritime networks and partnerships. On this basis, the Norwegian authorities state that co-operative ventures will have priority over single firm projects concerning grants under the Maritime RDI scheme.

Furthermore, both small and medium sized companies<sup>8</sup> and large companies will be eligible for aid under the scheme. According to the notification, the maritime companies in Norway are, to a large extent, SMEs. However, they often rely on partnerships with other players, especially larger companies, in order to be able to undertake strategic RDI. The scheme is intended to provide an incentive for large undertakings to take the lead in order to promote RDI projects in the industry.

The Norwegian authorities estimate the total number of beneficiaries for 2006 to be approximately 30. The same number of beneficiaries is expected in the following years.

#### 2.1.6 Implementation of the scheme and application procedure

The Maritime RDI scheme will be implemented by the state-owned company, Innovation Norway. Innovation Norway is the Norwegian Government's primary agent for implementation of public innovation programmes and schemes, and has several local offices in Norway and abroad. The headquarters is located in Oslo. Applications under the scheme will largely be received and handled by the local offices of Innovation Norway. The central administration will have a coordinating role.

In relation to the part of the scheme that concerns aid for innovation in the shipbuilding industry, particular procedural requirements will apply. Hence, applications for innovation aid will be sent to Innovation Norway accompanied by a confirmation from an independent expert that the project is eligible for aid according to the relevant criteria as provided by the scheme and the Shipbuilding Guidelines, both in a qualitative and quantitative meaning. This implies that the expert shall confirm to Innovation Norway that the project represents a technologically new or substantially improved product or process compared to the state of the art within the shipbuilding industry in Europe. Furthermore, the expert shall confirm that the aid applied for covers only eligible costs relative to the innovative parts of the project.

Innovation Norway will prepare a list of independent experts competent in matters of shipbuilding, research, development and innovation. Before an applicant issues a formal request for an assessment from an independent expert, Innovation Norway must be consulted. Innovation Norway will inform the applicants about which experts from the list are relevant on the basis of their availability and specific qualifications.

Only projects that are recommended by an independent expert are eligible for innovation aid under the scheme. Innovation Norway is responsible for determining whether an

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<sup>8</sup> Hereinafter referred to as "SMEs".

applicant qualifies for aid and the amount of aid to be granted. Innovation Norway's decisions in this regard will be based on the assessment of the independent expert.

The Norwegian authorities and Innovation Norway will submit annual reports to the Authority on the application of the scheme.

## **2.2 Description of the R&D part of the scheme**

### **2.2.1 Eligible applicants**

The core group of aid recipients in relation to the aid for R&D under the scheme will be undertakings in the maritime industry active *e.g.* in the markets for shipbuilding, ship equipment and related services, as well as shipowners. The Norwegian authorities furthermore state that projects involving both private and public research institutions may be eligible for aid under the scheme. Both projects handled by a single entity and collaborative projects may be eligible for aid, but projects carried out by several undertakings in collaboration will be given priority under the scheme. At least one of the partners involved must be involved in shipbuilding activities, or be a shipowner or a ship equipment company.

### **2.2.2 Eligible costs**

According to the notification, the eligible costs consist of the following:

- Costs for personnel employed solely in the research activity;
- Costs of durable assets used solely and on a continual basis for the research activity (equipment and instruments but not land and buildings);
- Costs of consultancy and equivalent services used exclusively for the research activity, including research, technical knowledge and patents, etc. bought from outside sources;
- Additional overheads incurred directly as a result of the research activity; and
- Other operating expenses (costs of materials, supplies and similar products) incurred directly as a result of the research activity.

### **2.2.3 R&D stages**

Funding under the aid scheme may, in principle, be granted for R&D in any of the stages referred to in Section 14.2.1 of the R&D Guidelines, *i.e.* fundamental research, industrial research and precompetitive development. In addition, feasibility studies related to these R&D stages qualify for aid under the scheme. However, the principal focus of the R&D part of the scheme will be on aid for precompetitive development activities. Aid under the scheme may also be granted in order to support patent applications by SMEs on the basis of fundamental research, industrial research and precompetitive development, but not renewal of existing patents.

### **2.2.4 Aid intensities**

According to the notification, the aid intensity will be matched with the character of the R&D. Accordingly, fundamental research may be funded up to 100 % of the eligible costs<sup>9</sup>, industrial research may be funded up to 50 % of the eligible costs, and

<sup>9</sup> The maximum of 100 % may only be granted if a wide dissemination of the results of the research is guaranteed, cf. paragraph (4) of Section 14.5.1 of the R&D Guidelines.

precompetitive development may be funded up to 25 % of the eligible costs. In addition, feasibility studies preparatory to industrial research may be funded up to 75 % of the study costs whereas such studies may be funded up to 50 % of the study costs if they are preparatory to precompetitive development.

In cases where a project covers different stages of R&D, the permissible aid intensity will be established on the basis of the weighted average of the respective permissible aid intensities, calculated on the basis of the eligible costs involved.

Patent applications by SMEs on the basis of fundamental research, industrial research and precompetitive development activities may be funded with an aid intensity of up to 25 %.

Two forms of bonuses will be applicable. Firstly, up to an extra 10 percentage points may be granted to SMEs<sup>10</sup>. Secondly, for R&D activities located in a region where undertakings are eligible for regional investment aid under Article 61(3)(c) of the EEA Agreement, a bonus of up to 5 percentage points is applicable<sup>11</sup>.

Aid under the scheme may be granted to projects based on international co-operation. However, no additional bonuses will be applicable for such projects.

A combination of the increased aid intensities described above will not result in a gross aid intensity exceeding 75 % for industrial research and 50 % for precompetitive development activities.

#### 2.2.5 Incentive effect

The scheme aims at encouraging larger firms to take the initiative and be the driving force in R&D projects undertaken in collaboration with SMEs. As a general rule, only those large companies forming part of such collaborative projects would receive aid under the scheme.

The Norwegian authorities have committed themselves to ensuring that aid to undertakings other than SMEs will only be granted under the scheme if it, after an assessment of the specific project, can be concluded that the R&D would not be performed in the absence of aid. The guidelines for the scheme include provisions stating that the incentive effect of the aid must be ensured, and they also state how this effect shall be documented by an applicant for aid under the scheme. It is, *i.a.*, stated in the guidelines that the aid must be a triggering factor for the R&D, or that the aid must contribute towards expanding the scope of research or speeding it up. This must be documented by the aid applicant in the project description when applying for aid under the scheme.

The annual report to the Authority on the implementation of the scheme will contain a description of the incentive effect for each individual application of the scheme as regards larger undertakings.

#### 2.2.6 Cumulation

The Norwegian authorities have committed themselves to ensuring that funding under the scheme will be coordinated with other aid schemes and that the maximum aid ceilings

<sup>10</sup> Norwegian authorities have confirmed that the bonuses will only be granted to SMEs within the meaning of the EEA state aid rules.

<sup>11</sup> There are no Article 61(3)(a) regions in Norway.

under Chapter 14.5 of the R&D Guidelines will not be exceeded. This is also expressed in the guidelines of the scheme.

### 2.2.7 Notification of large individual grants

According to the Norwegian authorities, any individual research project costing more than Euro 25 million and for which it is proposed to provide aid with a gross grant equivalent of more than Euro 5 million will require prior notification to the Authority.

## 2.3 Description of the innovation part of the scheme

### 2.3.1 Eligible applicants

The aid recipients of aid for innovation under the scheme will be:

- Shipbuilding companies, *i.e.* companies building self-propelled seagoing commercial vessels within the meaning of the Shipbuilding Guidelines;
- Ship repair companies, *i.e.* companies which repair or recondition self-propelled seagoing commercial vessels within the meaning of the Shipbuilding Guidelines; and
- Ship conversion companies, *i.e.* companies which perform conversions of self-propelled seagoing commercial vessels of not less than 1000 gt, on condition that conversion operations entail radical alterations to the cargo plan, the shell, the propulsion system or the passenger accommodation within the meaning of the Shipbuilding Guidelines.

### 2.3.2 Eligible costs

According to the notification, the aid will be limited to support expenditure on investments, design, engineering and testing activities directly and exclusively related to the innovative part of the project. Additional production costs strictly necessary to validate the technological innovation can be eligible to the extent that they are limited to the minimum amount necessary. The notification sets out the following products and processes as possibly eligible for innovation aid:

- New class of vessel:
  - Design costs, including concept development, concept design, functional design, detailed design, costs of studies, testing, mock-ups, and similar costs related to the development and the design of the vessel, costs for the planning of the implementation of the design and costs for tests and trials of the product. Standard engineering design equivalent to a previous class of vessels is not eligible for innovation aid.
  - Incremental labour and overhead costs, meaning production costs of the first vessel that exceeds production costs of the subsequent ship and additional production costs which are strictly necessary to validate the technological innovation (learning curve costs).
- New components and systems of ships:
  - Design and development costs;
  - Costs for testing the innovation parts and mock-ups;
  - Costs for material and equipment; and
  - In exceptional cases, the costs of construction and installation of a new component or system necessary to validate the innovation.
- New processes:
  - Design and development costs;

- Costs for material and equipment;
- Testing costs; and
- Costs of feasibility studies undertaken within 12 months prior to the aid application.

Eligible costs also include costs related to the procurement of goods and services from third parties if the goods and services are strictly related to the innovation.

### 2.3.3 Requirements - innovation

The aid must be related to the industrial application of innovative products and processes, *i.e.* technologically new or substantially improved products or processes compared to the state of the art in this industry in the EEA. Furthermore, the product or process should carry a risk of technological or industrial failure.

### 2.3.3 Aid intensities

According to the notification, the maximum aid intensity concerning aid for innovation under the scheme is 20 % of the eligible costs.

### 2.3.4 Aid amount

The total aid amount for innovation under the scheme will not exceed EUR 150 per Compensated Gross Tonnage (CGT) for a ship or EUR 5 million for new processes.

### 2.3.5 Cumulation

The Norwegian authorities have committed themselves to ensuring that aid under the scheme will not be combined with other forms of state aid within the meaning of Article 61(1) of the EEA Agreement or with other forms of financing obtained through the participation of EFTA States in Community programmes, provided that it results in an aid intensity higher than that laid down in the Shipbuilding Guidelines.

## II. APPRECIATION

### 1. 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 a notification for the scheme for research, development and innovation in the maritime industry (Maritime RDI) with the letter dated 7 February 2006, the Norwegian authorities have complied with the notification requirement. The scheme has not yet been put into effect.

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.



## 2. The presence of state aid

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”.*

In the notification of the scheme, the Norwegian authorities stated that even though the budget of the Maritime RDI scheme will, in general, be dedicated to innovation and precompetitive development activities, it cannot be ruled out that earlier stages of research, such as fundamental research, might be covered by the scheme in particular cases. Furthermore, although the core group of recipients under the scheme will be undertakings, it cannot be excluded that aid may, occasionally, be granted to higher education or research establishments. The Authority would like to point out, in this regard, that if support should be granted to fund fundamental research that is normally carried out by public, non-profit making higher education or research establishments, this aid will not constitute state aid within the meaning of Article 61(1) of the EEA Agreement.

However, as far as aid under the scheme is granted to undertakings, including higher education and research establishments that carry out research against remuneration, the scheme falls under Article 61(1) of the EEA Agreement. The notified aid is being funded by State resources in the form of budget allocations and will favour certain undertakings by relieving them of R&D costs that they would normally have to bear themselves. Consequently, the aid strengthens the position of the beneficiaries in relation to their actual or potential competitors in the EEA. Furthermore, the aid has a potentially distorting effect on competition within the EEA, as there are, according to the notification, other programmes in Europe focusing on research, development and/or innovation in the shipbuilding sector<sup>12</sup> and other undertakings in the EEA are active in the development of such technologies. The markets concerned by the funded research, development and innovation, namely the maritime industry, are to a large extent international, and as it cannot be excluded that the aid may affect trade within the EEA, the scheme constitutes state aid in the meaning of Article 61(1) of the EEA Agreement.

## 3. Compatibility of the aid

### 3.1 Assessment of the aid measure under the Authority’s State Aid Guidelines

The Authority has assessed the notified aid scheme according to Article 61(3)(c) of the EEA Agreement and in light of the R&D Guidelines and the Shipbuilding Guidelines. Article 61(3)(c) of the EEA Agreement regards 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 R&D activities is assessed under Chapter 14 of the Authority’s State Aid Guidelines, whereas aid granted for innovation activities in the shipbuilding sector is assessed under Chapter 24B of the State Aid Guidelines.

<sup>12</sup> Cf. Commission decisions Nos N 423/2004 – Spain, N 429/2004 – France and N 452/2004 – Germany.



## 3.2 Assessment of the aid measure under the R&D Guidelines

### 3.2.1 Eligible costs

The investments that may constitute eligible costs as regards aid for R&D under the scheme are in line with the permissible eligible costs as defined in Section 14.6 of the R&D Guidelines<sup>13</sup>.

### 3.2.2 R&D stages

The R&D activities funded under the scheme will, as a general rule, constitute precompetitive development activities. However, as it cannot be ruled out that the scheme may also, occasionally, fund R&D that must be qualified as fundamental or industrial research, the R&D stages notified comprise all the research stages described under Section 14.2.1 of the R&D Guidelines. Furthermore, technical feasibility studies preparatory to industrial research activities and precompetitive development activities may be funded under the scheme.

### 3.2.3 Aid intensities

The aid intensities under the scheme are in accordance with the aid intensities set out in the R&D Guidelines.

The gross aid intensities of 100 % for fundamental research<sup>14</sup>, 50 % for industrial research and 25 % for precompetitive development are in accordance with paragraphs (3), (5) and (7) respectively of Section 14.5.1 of the R&D Guidelines. Furthermore, the gross aid intensities for feasibility studies, 75 % for feasibility studies preparatory to industrial research activities and 50 % for feasibility studies preparatory to precompetitive development activities, correspond to paragraph (6) of Section 14.5.1 of the R&D Guidelines.

In cases where a project covers different stages, the permissible aid intensity will be established on the basis of a weighted average of the respective permissible aid intensities, calculated on the basis of the eligible costs involved, cf. paragraph (5) of Section 14.5.2 of the R&D Guidelines.

Patent applications by SMEs on the basis of fundamental research, industrial research and precompetitive development activities may be funded with an aid intensity of 25 %. This is in accordance with paragraph (3) of Section 14.5.2 of the R&D Guidelines.

The Norwegian authorities have committed themselves to ensuring that in the case of state aid for an R&D project carried out in collaboration between public research establishments and enterprises, the combined aid deriving from direct support for a specific research project and, where they constitute aid, contributions from public research establishments to that project may not exceed the aid ceilings mentioned in Section 14.5.1 of the R&D Guidelines.

<sup>13</sup> The permissible eligible costs are, according to Section 14.6 of the R&D Guidelines, personnel costs; costs of instruments, equipment and land and premises (costs of land and building are not eligible costs under the present scheme); costs of consultancy and equivalent services; additional overheads incurred directly as a result of the research activity; and other operating expenses.

<sup>14</sup> In such a case a wide dissemination of the results of the research must be guaranteed, cf. paragraph (4) of Section 14.5.1 of the R&D Guidelines.

The following bonuses are applicable to the scheme and in accordance with Section 14.5.3 of the R&D Guidelines:

- In accordance with paragraph (1) of Section 14.5.3 of the R&D Guidelines, a bonus of maximum 10 percentage points is applicable to aid for industrial research, precompetitive development or feasibility studies undertaken by SMEs.
- If the funded R&D activities are located in a region where the undertakings are eligible for regional investment aid under Article 61(3)(c), a bonus of up to 5 percentage points will be applicable. The bonus corresponds to the bonus set out in paragraph (1) of Section 14.5.3 of the R&D Guidelines.

The Norwegian authorities have committed themselves to ensuring that the gross maximum aid intensity, all bonuses included, does not exceed 75 % for industrial research and 50 % for precompetitive development activities. This is in accordance with the maximum aid intensities in paragraph (7) of Section 14.5.3 of the R&D Guidelines.

### 3.2.4 Incentive effect

State aid for R&D should, according to paragraph (1) of Section 14.7 of the R&D Guidelines, serve as an incentive for firms to undertake R&D activities in addition to their normal day-to-day operations. As far as SMEs are concerned, the Authority may assume that the aid provides a necessary incentive for the R&D activities<sup>15</sup>. As regards other undertakings, the Norwegian authorities have committed themselves to ensuring that aid will only be granted under the scheme if it can be concluded that the R&D would not be performed in the absence of aid. Furthermore, the guidelines for the scheme include provisions stating that the incentive effect of the aid must be ensured, and also that this effect shall be documented by the applicant for aid under the scheme.

The Norwegian authorities' annual reports to the Authority on the implementation of the scheme will contain a description of the incentive effect for each individual application of the scheme as regards larger undertakings.

### 3.2.5 Cumulation

The Norwegian authorities have committed themselves to ensuring that the funding under the programme will be coordinated with other aid schemes and that the aid ceilings will not be exceeded. This is also expressed in the guidelines of the scheme.

### 3.2.6 Notification of large individual grants

According to the guidelines of the scheme, any individual research project costing more than Euro 25 million and for which it is proposed to provide aid with a gross grant equivalent of more than Euro 5 million will, in conformity with paragraph (8) of Section 14.4 of the R&D Guidelines, require prior notification to the Authority.

<sup>15</sup> Cf. paragraph (4) of Section 14.7 of the R&D Guidelines. This Section refers to Chapter 10 of the R&D Guidelines. However, this Chapter has been deleted, and the definition of SMEs can now be found in Annex I to the Block Exemption Regulation on aid to SMEs, Commission Regulation (EC) No. 70/2001 of 12 January 2001, published in Official Journal L 10, 13.01.2001, pages 33-42. The regulation is incorporated in the EEA Agreement by reference in point 1f of Annex XV to the EEA Agreement. The substance of the definition remains the same.

### 3.3 Assessment of the aid measure under the Shipbuilding Guidelines

#### 3.3.1 Eligible applicants

The aid recipients of aid for innovation under the scheme are shipbuilding companies, ship repair companies and ship conversion companies. This is in line with paragraph (13) of Section 24B.3.3.1 of the Shipbuilding Guidelines.

#### 3.3.2 Eligible costs

The aid granted under the Maritime RDI scheme will be limited to support expenditure on investments, design, engineering and testing activities directly and exclusively related to the innovative part of the projects concerned. Exceptionally, additional production costs strictly necessary to validate the technological innovation can be eligible to the extent that they are limited to the minimum necessary amount. This is in line with paragraph (15)(b) of Section 24B.3.3.1 of the Shipbuilding Guidelines<sup>16</sup>.

#### 2.3.3 Requirements - innovation

The aid must be related to the industrial application of innovative products and processes, *i.e.* technologically new or substantially improved products or processes compared to the state of the art in this industry in the EEA. Furthermore, the product or process should carry a risk of technological or industrial failure. The requirements are in line with paragraph (15)(a) of Section 24B.3.3.1 of the Shipbuilding Guidelines.

In relation to the part of the scheme that concerns aid for innovation in the shipbuilding industry, particular procedural requirements will apply. Hence, applications for innovation aid will be sent to Innovation Norway accompanied by a confirmation from an independent expert that the project is eligible for aid according to the relevant criteria as provided by the scheme and by the Shipbuilding Guidelines, both in a qualitative and quantitative meaning. This implies that the expert shall confirm to Innovation Norway that the project represents a technologically new or substantially improved product or process compared to the state of the art within the shipbuilding industry in Europe. Furthermore, the expert shall confirm that the aid applied for covers only eligible costs relative to the innovative parts of the project.

Only projects that are recommended by an independent expert are eligible for innovation aid under the scheme. Innovation Norway is responsible for determining whether an applicant qualifies for aid and the amount of aid to be granted. Innovation Norway's decisions in this regard will be based on the assessment of the independent expert.

These requirements are in line with the decisions taken by the European Commission concerning similar aid schemes in other EEA States<sup>17</sup>.

<sup>16</sup> The detailed overview of the eligible costs set out in the notification and in Section 2.3.2 above seem to be identical to the eligible costs accepted by the Commission *i.a.* in decision No N 452/2004 concerning a similar German aid scheme.

<sup>17</sup> Cf. Commission decisions Nos N 423/2004 – Spain, N 429/2004 – France and N 452/2004 – Germany.

#### 3.3.4 Aid intensities

The maximum aid intensity in relation to aid for innovation under the Maritime RDI scheme is 20 % gross. The aid intensity is in accordance with paragraph (15) of Section 24B.3.3.1 of the Shipbuilding Guidelines.

#### 3.3.5 Aid amount

The total aid amount for innovation under the scheme will not exceed EUR 150 per CGT for a ship or EUR 5 million for new processes.

#### 3.3.6 Cumulation

The Norwegian authorities have committed themselves to ensuring that, in line with paragraph (29) of Section 24B.6 of the Shipbuilding Guidelines, aid under the scheme will not be combined with other forms of state aid within the meaning of Article 61(1) of the EEA Agreement or with other forms of financing obtained through the participation of EFTA States in Community programmes, the cumulation of which produces an aid intensity higher than that laid down in the Shipbuilding Guidelines.

### 4. Conclusion

The Authority concludes that the notified scheme for research, development and innovation in the maritime industry (Maritime RDI) 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 R&D Guidelines and the Shipbuilding 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 scheme for research, development and innovation in the maritime industry.
2. This Decision is addressed to the Kingdom of Norway.
3. This Decision is authentic in the English language.

Done at Brussels, 5 July 2006

For the EFTA Surveillance Authority

Bjørn T. Grydeland  
President

Kristján A. Stefánsson  
College Member