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# *EFTA SURVEILLANCE AUTHORITY*

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**EFTA SURVEILLANCE AUTHORITY DECISION**  
**of 11 May 1994**  
**on State aid to an R&D and investment project by BMW in Steyr, Austria**

## **I. FACTS**

### **1.1 Background**

On 10 August 1993 the Austrian authorities informed the EC Commission of their plan to grant aid to BMW Motoren Gesellschaft mbH, Steyr, Austria, in support of a research and development project and related investments with the aim of developing motor vehicle engines designed to reduce exhaust emission and lower fuel consumption.

The case was examined by the Commission and additional information gathered from the Austrian authorities. However, the aid had not been put into effect when, on 1 January 1994, the Agreement on the European Economic Area<sup>1</sup> entered into force. From that date onwards the EFTA States parties to the EEA Agreement, in respect of which the Agreement has entered into force, are obliged to notify to the EFTA Surveillance Authority, in conformity with Article 1(3) of Protocol 3 to the Agreement between the EFTA States on the establishment of a Surveillance Authority and a Court of Justice<sup>2</sup>, any plans to grant or alter aid. It was therefore agreed between the Austrian authorities, the EC Commission and the EFTA Surveillance Authority to transfer to the Surveillance Authority all information relating to the case, which the Austrian authorities and the enterprise involved had submitted to the Commission, and that the Surveillance Authority would, to the extent it deemed appropriate, make use of the findings already available.

By letter dated 4 February 1994, received by the Surveillance Authority on that day, the Austrian authorities notified the EFTA Surveillance Authority, in conformity with Article 1(3) of Protocol 3 to the Surveillance and Court Agreement, of its above mentioned plan to award aid totalling 467,3 million Austrian Shillings (ATS) to BMW Motoren Gesellschaft mbH in Steyr, Austria. Modified notifications were

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<sup>1</sup>Hereinafter referred to as the EEA Agreement

<sup>2</sup>Hereinafter referred to as the Surveillance and Court Agreement

Surveillance Authority on the same days, inter alia reducing the planned aid amount to a maximum of ATS 454,8 million.

## **1.2 Project concerned and details of planned aid**

The project involves research, process and product development in the area of diesel and petrol engine technology, with the aim of reducing fuel consumption and carbon emission levels, together with measures to enhance environmental protection at the plant and for the training of employees. Moreover, the project foresees related investments in production facilities.

The overall cost of the project is estimated at 3.396,7 million ATS, of which 2.855,6 million ATS is considered eligible for State aid. The maximum total amount of aid proposed by the Austrian authorities in support of the project is 454,8 million ATS, in the form of a grant according to Art. 1b(1) of the Guarantee Act of 1977 and grants according to regional and local aid schemes. The aid will be paid in equal instalments over four years starting in 1994.

A breakdown of the project costs together with the proposed aid amounts and aid intensities is set out in the following table:

Amounts in million Austrian shillings

	Project costs	Max. amount of aid	Aid intensity
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**Research and development**  
in the area of diesel engine technology  
including R&D-centre:

Basic industrial research	140.0	70.0	50%
Applied research	381.0	95.25	25%
Process development	296.5	44.48	15%
Product development	497.1	0.0	
Research and development expenditure, total	1,314.6	209.73	

**Environmental protection:**

Measures reaching significantly beyond requirements	129.0	38.7	30%
Measures fulfilling new legal requirements	62.0	9.3	15%
Environmental protection expenditure, total	191.0	48.0	

**Training:**

Basic training	29.0	14.5	50%
On-the-job training	37.0	9.25	25%
Wages of trainees	44.0	0.0	
Training expenditure, total	110.0	23.75	

<b>Regional investment</b>	1,781.1	173.28	8.9%
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<b>Total project costs</b>	<b>3,396.7</b>	<b>454.8</b>	
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BMW Motoren Gesellschaft mbH, Steyr, is a wholly owned subsidiary of Bayerische Motoren Werke Aktiengesellschaft, Munich, producing a core range of diesel and petrol engines for the parent company. The plant is operated on two shifts per day 5 days a week and has a production capacity of 400.000 units per year. Total production in 1992 was 378.201 units and was all exported to other EEA countries. In 1996, when the project will have been concluded and the reconstructed and extended production lines have become fully operative, the production capacity will increase to 450.000 - 460.000 units per year. However, the capacity expansion is exclusively intended to supply BMW's new assembly plant in the USA. Employment at the plant will increase from 2.124 in 1992 to 2.300 in 1996. The project will bring about only insignificant changes in cost per unit.

## II. APPRECIATION

The aid plan has been notified to the EFTA Surveillance Authority in conformity with Article 1(3) of Protocol 3 to the Surveillance and Court Agreement.

The planned support is in the form of grants from central, regional and local government and would therefore be granted through State resources in the meaning of Article 61(1) of the EEA Agreement. As there is substantial trade in motor vehicle engines between the Contracting Parties to the EEA Agreement and the support measures will relieve the enterprise concerned from part of the investment costs, they threaten to distort competition and affect intra-EEA trade. The measures therefore constitute State aid in the meaning of Article 61(1) of the EEA Agreement.

In these circumstances it should be assessed whether any of the derogation clauses under Article 61(2) and (3) of the EEA Agreement are applicable in order that the proposed aid may be exempted from the general prohibition of aid under Article 61(1). In particular, it is relevant to examine the aid proposal with regard to Article 61(3)(c) and the rules on State aid to the motor vehicle industry, as set out in chapter 23 of the Surveillance Authority's Procedural and Substantive Rules in the Field of State Aid<sup>3</sup>.

These rules aim to establish full transparency of aid flows to the motor vehicle industry and at the same time impose a strict discipline with regard to the granting of aid in order to prevent distortion of competition. The proposed aid to the BMW project has several objectives. According to the rules on aid to the motor vehicle industry the assessment criteria vary depending on the objective pursued by the aid. It is therefore necessary to examine separately the individual aspects of the proposed aid.

### 2.1 Aid for research and development

As outlined in the rules on aid for research and development<sup>4</sup> the EFTA Surveillance Authority recognises, in general, the potential beneficial effects of R&D activity on economic development and takes a favourable view of aid to such activity, provided that it is not likely to adversely affect trading conditions to an extent contrary to the functioning of the EEA Agreement. The assessment of such aid takes into consideration several factors such as the nature of the project, whether it really relates to genuinely innovative products or processes, the technical and financial risk involved and the risk of distortion of competition.

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<sup>3</sup>The 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.

<sup>4</sup>See Chapter 14 of the Surveillance Authority's Procedural and Substantive Rules in the Field of State Aid.

For basic industrial research the level of aid should, as a general rule, not exceed 50% of the gross eligible costs. As the activity being aided gets nearer to the market place, involving the areas of applied research and development, the Surveillance Authority looks in principle for progressively lower levels of aid.

The present aid proposal groups the R&D activities of the project into four categories as set out in the above table. A nominal aid intensity of 50% is proposed for basic industrial research, which corresponds to the above mentioned maximum ceiling in the R&D rules. The aid intensity of 25% proposed for applied research is also deemed to be acceptable. With regard to process development the respective activity has been examined by an independent expert and considered to be genuinely innovative on a European level. On that basis the proposed aid intensity of 15% can be justified. No aid will be awarded in support of the product development phase of the project.

## **2.2 Aid for environmental protection**

The project expenditure on environmental protection involves firstly measures which aim at achieving levels of environmental protection significantly higher than those required by legal or mandatory requirements. The proposed aid for this purpose implies a nominal aid intensity of 30%. Secondly, an aid intensity of 15% is proposed in support of measures aiming to fulfil new legal requirements. In both cases the aid intensity corresponds to the maximum limits stipulated in the rules on aid for environmental protection<sup>5</sup> and is therefore deemed to be compatible with the EEA Agreement.

## **2.3 Aid for training**

In relation to the development of the new products and production processes and the introduction of a new assembly work structure the project foresees measures for training of the company's workforce. The total project expenditure on vocational training of ATS 110 million includes ATS 44 million for wages of trainees, which the Austrian authorities rightly do not consider eligible for aid. The remaining ATS 66 million has been classified as basic training (ATS 29 million) and on-the-job training (ATS 37 million). The proposed aid corresponds to an aid intensity of 50% for basic training and 25% for on-the-job training.

In view of the nature of the project it is considered that the vocational training measures will correspond to genuinely qualitative changes in the required qualifications of the workforce and relate to a significant proportion of the workforce. On this basis and since the level of aid is within reasonable limits, the proposed aid for training is considered acceptable.

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<sup>5</sup>See Chapter 15 of the Surveillance Authority's Procedural and Substantive Rules in the Field of State Aid.

## 2.4 Aid for regional investment

The eligible regional investment expenditure of the project amounts to ATS 1.781 million and the proposed maximum amount of aid for this purpose is ATS 173.3 million. Having taken into account the timing of the projected investment on the one hand and of the disbursements of aid on the other, the discounted gross grant equivalent of the proposed aid is 8.9%.

The rules on state aid to the motor vehicle industry as set out in Chapter 23 of the Surveillance Authority's Procedural and Substantive Rules in the Field of State Aid acknowledge the valuable contribution to regional development which can be made by investments in new or expanded motor vehicle and component production facilities in disadvantaged regions of the EFTA States. This position coincides with the Surveillance Authority's generally positive attitude towards investment aid granted in order to help overcome structural handicaps in disadvantaged regions.

According to the EFTA Surveillance Authority Decision of 11 May 1994 on the map of assisted areas (Austria) the region of Steyr-Kirchdorf (Oberösterreich) is accepted as eligible for regional aid under Article 61(3)(c) of the EEA Agreement, up to a maximum aid intensity of 15 per cent (NGE). The level of the regional aid element in the present proposal is well below this ceiling.

However, in view of the sensitive nature of the motor vehicle sector and high risk of distortion of competition, it is necessary to ensure that the aid granted is in proportion to the problem it seeks to resolve and that due account be taken of possible adverse effects on the sector as a whole, such as the creation of important overcapacity. A cost/benefit analysis has been carried out by an independent consultant aiming to identify and quantify all additional costs and benefits arising for BMW from its decision to extend its production facilities in Steyr as compared to an equivalent expansion at an existing site in a central non-assisted region (Regensburg, Germany). This comparative analysis related to additional investment costs as well as to incremental operating costs and benefits of the early years of production.

The main result of the analysis is that the estimated net additional costs or structural handicaps facing BMW due to the geographical location of the expansion programme is estimated to represent 5,9% of the eligible regional investment.

As concerns the possible adverse effects on the motor vehicle sector in the territory covered by the EEA Agreement, the Surveillance Authority notes that the planned capacity expansion from 400.000 units in 1992 to 450 - 460.000 units in 1996 is exclusively intended to supply BMW's assembly plant in the United States. The investment will therefore not lead to the creation of overcapacity in the relevant sector at European level, which would have been to the detriment of BMW's competitors. For this reason an increase in aid intensity, a so-called top-up, of 3% can be allowed as an additional incentive for the regional investment, implying an aggregate level of acceptable aid intensity of 8,9%, which coincides with the proposed aid intensity.

In view of the expected positive effects on regional development and given that the investment is deemed not to produce adverse sectoral effects at European level and that the proposed level of aid is in reasonable proportion to the regional handicaps facing the investor, the EFTA Surveillance Authority may accept the proposed aid intensity.

### 3. Conclusion

The EFTA Surveillance Authority considers that the aid proposed by the Austrian authorities, which has been notified in conformity with Article 1(3) of Protocol 3 to the Surveillance and Court Agreement, is reasonable when account is taken of the nature of the research, environmental protection and training measures involved, the importance of these activities and the related investment in production facilities to the development of the relatively underdeveloped region of Steyr and the associated cost disadvantages for the investor and that the investment will not produce adverse sectoral effects on the relevant European market. Therefore, the aid is eligible for exemption under Article 61(3)(c) of the EEA Agreement.

### ON THOSE GROUNDS

#### THE EFTA SURVEILLANCE AUTHORITY HAS ADOPTED THIS DECISION:

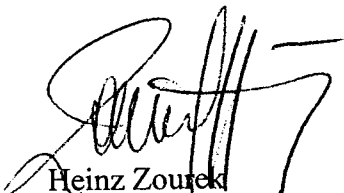
1. The EFTA Surveillance Authority decides, pursuant to Article 61(3)(c) of the EEA Agreement and Article 1(3) of Protocol 3 to the Surveillance and Court Agreement, not to raise objections to the aid measures of the Austrian authorities, as notified in letters of 4 February 1994, 25 February 1994 and 29 April 1994.
2. The Austrian authorities shall provide the EFTA Surveillance Authority with an annual report on the investment expenditure and aid payments to BMW, in conformity with section 23.5 of the Procedural and Substantive Rules in the Field of State Aid.

Done at Brussels, 11 May 1994

For the EFTA Surveillance Authority



Knut Almestad  
President of the EFTA Surveillance Authority



Heinz Zourek  
College Member