


EFTA SURVEILLANCE AUTHORITY

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EFTA SURVEILLANCE AUTHORITY DECISION

OF 3 JUNE 1994

ON THE TEMPORARY GRANT SCHEME FOR INDUSTRIAL INVESTMENT (FINLAND)

THE EFTA SURVEILLANCE AUTHORITY,

Having regard to the Agreement on the European Economic Area¹, in particular to Articles 61 to 63,

Having regard to the Agreement between the EFTA States on the establishment of a Surveillance Authority and a Court of Justice², in particular Article 1 of Protocol 3 thereof,

WHEREAS:

I. FACTS

1. The notification

By letter dated 17 March 1994, received by the EFTA Surveillance Authority on the same day (ref. 94-5091A), the Finnish Government notified, in accordance with Article 1 (3) of Protocol 3 to the Surveillance and Court Agreement, a law bill on the temporary grant scheme for industrial investment. The EFTA Surveillance Authority, by letter dated 30 March 1994 (ref. 94-5333D), requested additional information from the Finnish Government.

The notification was amended by letter dated 16 May 1994, received by the EFTA Surveillance Authority on 17 May 1994 (ref. 94-7450A).

¹ Hereinafter referred to as the EEA Agreement.

² Hereinafter referred to as the Surveillance and Court Agreement.

2. The contents of the proposed law

The proposed law bill aims at speeding up the recovery of the economy through stimulus given to small and medium-sized enterprises (SMEs). This objective is to be achieved by stimulating private investment carried out by SMEs. A secondary objective of the scheme is to improve the situation of employment in Finland.

The aid covers investment in production buildings built in 1994 and machinery and equipment ordered, supplied and taken into use in 1994. SMEs falling within the definition given below may benefit, on application, from the aid which is given in the form of a grant. The steel and motor vehicle industries are excluded from the scope of the scheme.

The grant is taxable income. The amount of the grant is 7 % of the acquisition cost of the building, machinery or equipment. Aid may cover only investments that amount at least up to FIM 50,000. The acquisition cost must be covered by the transition reserve, or by the investment reserve if the transition reserve is not sufficient. These tax-free reserves, which may no longer be set up, were created under previous tax laws. According to transitional provisions in the current tax legislation enterprises have to use these reserves for investments by 1997.

Although the aid is awarded in the form of a grant, the effect of the aid is similar to that of a tax concession. The scheme is limited in time and directed to SMEs. The grant covers only investments made in 1994. Enterprises would benefit from the aid in 1995 in the context of the tax collection for year 1994, or in the following year.

In the law bill a small and medium-sized enterprise (SME) is defined as an enterprise which has no more than 250 employees and has either an annual turnover not exceeding FIM 120 million or a balance sheet total not exceeding FIM 60 million. Moreover, the enterprise cannot be more than 25 % owned by one or more companies not falling within this definition.

II. APPRECIATION

Part of investments made by enterprises are covered by the grant. The budget of the scheme is financed through the national budget by reducing tax income in 1995. Thus, the aid will be granted by the State through State resources. The law foresees aid awards in favour of certain undertakings or the production of certain goods. By relieving the enterprises from part of the investment costs that they would have to bear in normal circumstances, the aid threatens to distort competition and affect trade within the EEA, particularly since the products of the favoured undertakings may be in competition with that of undertakings in other States participating in the EEA. Therefore, the foreseen grant scheme constitutes aid in the meaning of Article 61(1) of the EEA Agreement.

Consequently, the EFTA Surveillance Authority is obliged to assess whether any of the exemption clauses under Article 61(2) and (3) are applicable in order to exempt the aid measure from the general prohibition of aid under Article 61(1).

The scheme has clear horizontal objectives in giving stimulus for small and medium-sized enterprises to invest. The definition of SMEs stated in the law bill is compatible with the EEA provisions on State aid, as stated in chapter 10 of the Procedural and Substantive Rules in the Field of State Aid, adopted by the EFTA Surveillance Authority on 19 January 1994³. Sensitive sectors with existing over-capacity such as the steel and motor vehicle industries are excluded by the law from the scope of the scheme. As there has been no synthetic fibres industry in Finland and as the enterprises eligible for the aid must cover the acquisition costs by the reserves created before 1993, this particular sector is in practice also excluded.

The aid would contribute to an earlier acceleration of private investment by SMEs than otherwise would be the case if the aid was not granted. As a strong position of SMEs can be seen as a healthy basis for economic growth particularly during an economic crisis as now prevailing in Finland, while contributing to the improvement of the economy by investing with their own money, the aid has positive effects to the economy. Since the law stipulates that the reserves must be used or counted as taxable income in 1997 at the latest, the scheme also enhances the dismantling of the system of such reserves earlier than necessitated by the laws governing the reserves.

As the investments would have to be covered by the transition or investment reserves, aid would in practice be given to companies that will make a profit for the year 1994. The aid would, therefore, not support weak enterprises and create over-capacity. The positive effects of aid, thus, outweigh distortions of trade as the scheme is limited in time, the aid intensity is low and the aid is given only to SMEs outside sensitive sectors.⁴

The scheme qualifies for the accelerated clearance procedure, as stipulated in chapter 11 of the State Aid Guidelines, in that

- it is a new scheme limited to SMEs, where the scheme has specific investment objectives and where the aid intensity does not exceed 7,5% of the investment cost;
- the aid intensity is expressed in gross terms, i.e. before any calculation for tax effects;
- the Finnish authorities ensure cumulation control⁵;
- as the aid is granted for investment purposes, the possibility of the aid being granted to exports or in the form of an operating aid is excluded;
- sensitive industrial sectors are *de facto* or *de jure* excluded.

³ Hereinafter referred to as State Aid Guidelines.

⁴ Recent decisions of the Commission show that similar tax concessions for investment, which have been limited in time, have been authorized when applied in assisted areas and/or directed to SMEs (see e.g. *Tax concessions for investment in the Basque country* (C 22/91, ex NN 7/89); *Investment tax allowance in the former GDR* (N 561/92); *Berlin Promotion Law* (NN 110/91-NN 113/91); *Dispositif spécifique pour le bassin minier et la Sambre-Avesnois: Zones d'Investissement Privilégié* (N 105/92)).

⁵ Decision of the Ministry of Trade and Industry (No. 294, 22 April 1994)

When adopting the State Aid Guidelines, the Surveillance Authority expressed a principle not to object to new aid schemes for SMEs notified pursuant to Article 1(3) of Protocol 3 to the Surveillance and Court Agreement meeting the criteria set out in section 11.1 of the Guidelines.

Therefore it is concluded that the law on temporary grant scheme for industrial investment qualifies for exemption under Article 61(3)(c) of the EEA Agreement by facilitating the development of certain economic activities.

HAS ADOPTED THIS DECISION:

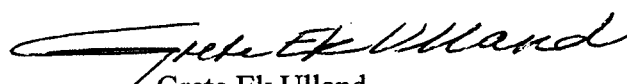
1. The EFTA Surveillance Authority has decided not to raise objections to the law on temporary grant scheme for industrial investment (*Laki teollisten investointien väliaikaisesta investointituesta*) as notified in letters dated 17 March 1994 and 16 May 1994.
2. The Finnish Government is obliged to submit a simplified annual report (according to chapter 30 of and Annex IV to the Procedural and Substantive Rules in the Field of State Aid) on the application of the law to the EFTA Surveillance Authority.

Done at Brussels, 3 June 1994

For the EFTA Surveillance Authority



Heinz Zourek
College Member



Grete Ek Ulland
Executive Secretary