

EFTA SURVEILLANCE AUTHORITY

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EFTA SURVEILLANCE AUTHORITY DECISION

of 8 June 1994

on the temporary aid scheme 'Grant to Small Enterprises' (Sweden)

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 10 May 1994, received by the EFTA Surveillance Authority on 11 May 1994 (ref. 94-7320A), the Swedish Government notified, in accordance with Article 1 (3) of Protocol 3 to the Surveillance and Court Agreement, of its plan to introduce a new temporary aid scheme for small enterprises. In the notification the Swedish authorities requested the Surveillance Authority to use the accelerated clearance procedure for taking decision on the notification. By letter of 16 May 1994 (ref. 94-7382D) the Surveillance Authority requested additional information from the Swedish Authorities.

The following was submitted as additional information to the notification: Government Bill with the title of 'Regeringens proposition 1993/94:140, Bygder och regioner i utveckling', registered by the Surveillance Authority on 27 May 1994 (ref. 94-8027A); and draft Government ordinance on Grant to Small Enterprises

¹ Hereinafter referred to as the EEA Agreement.

² Hereinafter referred to as the Surveillance and Court Agreement.

('Förordning om tillfälligt småföretagsstöd'), first registered on 27 May 1994 (ref. 94-8024A), and then submitted in an amended form by telefax from the Ministry of Labour of 1 June 1994, registered by the Surveillance Authority on the same day (ref. 94-8180A).

2. The planned aid scheme

The aid scheme is introduced as a temporary measure with the main objective to reduce unemployment by promoting investment projects of small firms. The scheme will only be applied during the Swedish State's financial year starting on 1 July 1994 and ending on 30 June 1995, and has a budget appropriation of 800 million Swedish kronor (SEK).

The legal basis for the scheme will firstly be provided on the one hand in the State's annual budget for the financial year 1 July 1994 to 30 June 1995 and on the other hand in a parliamentary resolution on regional policy, a proposal for which is contained in the document 'Regeringens proposition 1993/94:140' referred to above as additional information to the notification. The part of this document, which is relevant for the present scheme, is chapter 12 ('Särskilda regionala åtgärder för regional utveckling och tillväxt under budgetåret 1994/95'). This chapter gives the background and broad outlines of the scheme. Secondly, the scheme will be prescribed in more detail in a Government ordinance, 'Förordning om tillfälligt småföretagsstöd', a draft of which has been submitted to the Surveillance Authority, as referred to above.

The scheme falls under the responsibility of the Ministry of Labour, but will be administered by the 24 County Administrative Boards.

The aid will be available to small enterprises regardless of their geographical location within the country. The Government ordinance defines small enterprises as firms employing up to 50 employees and having either an annual turnover of not more than SEK 40 million (ECU 4.4 million) or a balance sheet total of maximum SEK 15 million (ECU 1.7 million) and not more than 25% owned by one or more companies not falling within this definition, except public investment corporations, venture capital companies or, provided no control is exercised, institutional investors. However, according to the first paragraph of §2 of the draft ordinance for the scheme companies operating within the textile and clothing, synthetic fibres, motor vehicle and steel industries are excluded from the scheme. With regard to eligible economic sectors §11 of the draft ordinance also makes a reference to the ordinance SFS 1990:642 ('Förordning om regionalpolitiskt företagsstöd'), i.a. §2 which defines the sectors eligible for aid. This delimitation of eligible sectors does not include the transport sector.

Aid will be awarded, on application, in connection with investments which are expected to create new long-term employment. The aid will only take the form of a grant with a maximum aid intensity of 15% (gross) of investment costs.

The eligible expenditure is defined as investments in buildings, land, machinery and other equipment and also intangible investments in the form of patents, licenses,

marketing, product development, training and the like. Aid will only be awarded in support of investments, where the total eligible capital expenditure does not exceed SEK 20 million.

If the investment, in respect of which the aid is awarded, has not taken place on 30 September 1995, the County Administrative Board can decide that the recipient shall be deprived of the right to the unused part of the approved aid.

If the aided project also receives aid from other sources, the second and third paragraph of §11 of the ordinance SFS 1990:642 ('Förordning om regionalpolitiskt företagsstöd') shall be applied, according to which the responsible national authorities must ensure that the cumulated aid intensity in such cases does not exceed the highest aid intensity allowed under other aid schemes, which are being applied. The cumulated aid intensity must under no circumstances exceed 70% in regional aid area 1, according to the ordinance SFS 1990:642, and for other regions it must not exceed 50%.

II. APPRECIATION

The grant will be financed through the Swedish national budget of 1994/95 and will thus clearly be granted through State resources in the meaning of Article 61(1) of the EEA Agreement. According to the scheme grants may be awarded only to certain types of enterprises (small enterprises), which engage in specific types of investment. Such support, which relieves certain enterprises from part of the investment costs that they would otherwise bear, threatens to distort competition and will be capable of affecting trade within the EEA, since it may be assumed that many of the recipient enterprises engage in production of goods, in which there is trade between Sweden and other States participating in the EEA. The planned scheme therefore constitutes State aid in the meaning of Article 61(1) of the EEA Agreement.

Consequently, it should be assessed whether any of the exemption clauses under Article 61(2) and (3) of the EEA Agreement are applicable in order that the proposed aid scheme 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 aid to small and medium sized enterprises (SMEs), as set out in Chapter 10 and 11 of the Surveillance Authority's Procedural and Substantive Rules in the Field of State Aid³, hereinafter referred to as the State Aid Guidelines.

The definition of small enterprises, which the scheme uses and has been explained above, is within the definition of small enterprises stipulated in the rules on aid to SMEs. As has also been outlined above the draft ordinance for the scheme provides for the exclusion from the scheme of firms operating within the textile and clothing, synthetic fibres, motor vehicle and steel industries. The transport sector is also

³Procedural 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.

excluded, as it is not included in the definition of eligible sectors used in §11 of the draft ordinance for the scheme. The aid will only be awarded in support of physical investments and specific types of intangible investments. It will therefore not be possible to grant operating aid or direct export subsidies under the scheme. Furthermore, the draft ordinance for the scheme obliges the Swedish authorities to ensure control of cumulation of aid from different sources in a manner which is deemed to meet the requirements of the relevant provisions of the State Aid Guidelines. On these grounds and considering the intensity of the aid, it can be concluded firstly, that the aid scheme falls under the rules on aid to SMEs and secondly, that it fulfils the criteria for the application of the accelerated clearance procedure, as laid down in Chapter 11 of the State Aid Guidelines.

In the State Aid Guidelines the Surveillance Authority has on the one hand declared that positive externalities are likely to be associated with the development of SMEs, e.g. due to their high share in creating new jobs and important contribution to innovation. On the other hand SMEs face certain handicaps when compared to established large firms. For these reasons there could be no doubt that aid for SMEs, which are particularly important for certain sectors of the economy and for regional development, 'facilitates the development of certain economic activities or of certain economic areas'. In the light of the present high unemployment in Sweden, such a favourable view is justifiable, especially considering that the scheme is a temporary measure, which will be applied only for one year.

Given that the so-called sensitive sectors, together with operating aid and export subsidies, are excluded from the scheme and that the provisions on cumulation control are deemed to be satisfactory, the Surveillance Authority has in the State Aid Guidelines expressed its general presumption, under such circumstances, in favour of the compatibility of investment aid to SMEs, on the condition that it does not exceed certain limits of aid intensity. For the present scheme the maximum aid intensity is 15% of investment costs expressed in gross terms, i.e. before any calculation for tax effects. This aid intensity corresponds to the maximum levels stipulated in the rules on aid to SMEs and are therefore considered to be acceptable.

It is concluded, therefore, that the temporary aid scheme 'Grant to small enterprises' qualifies for exemption under Article 61(3)(c) of the EEA Agreement by facilitating the development of certain economic activities without adversely affecting trading conditions to an extent contrary to the common interest.

HAS ADOPTED THIS DECISION:

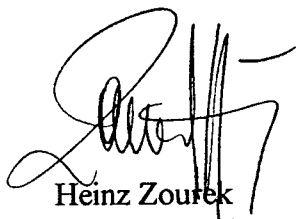
1. The EFTA Surveillance Authority has decided not to raise objections to the plan by the Swedish Government for the temporary aid scheme 'Grant to Small Enterprises' ('Tillfälligt småföretagsstöd') as notified in the letter received on 11 May 1994 and clarified by additional information received on 27 May 1994 and 1 June 1994.

2. The Swedish Government is obliged to submit to the EFTA Surveillance Authority a simplified annual report on the application of the scheme, in accordance


with Chapter 30 of and Annex IV to the Procedural and Substantive Rules in the Field of State Aid .

Done at Brussels, 8 June 1994

For the EFTA Surveillance Authority



Heinz Zourek
College Member



Grete Ek Ulland
Executive Secretary