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# *EFTA SURVEILLANCE AUTHORITY*

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## EFTA SURVEILLANCE AUTHORITY DECISION

OF 7 DECEMBER 1994

ON THE AMENDMENT OF THE GRANT FOR TRANSPORTATION COSTS - ÅLAND (FINLAND)

THE EFTA SURVEILLANCE AUTHORITY,

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

WHEREAS:

### I. FACTS

#### 1. The notification

By letter dated 26 August 1994, received by the EFTA Surveillance Authority on 29 August (ref. 94-12734A), the Finnish Government notified, in accordance with Article 1(3) of Protocol 3 to the Surveillance and Court Agreement, a proposal to alter the grant for transportation costs in Åland, which was notified to the Authority as an existing aid scheme (Case No. 93-081) by letter 3 March 1994 (ref. 94-3941A). By letter dated 21 September 1994 (ref. 94-13999D) the Surveillance Authority requested additional information. The requested information was submitted to the Authority by letter dated 17 October 1994 (ref. 94-15563A). As the alteration took place before the proposal was notified, the Authority has treated it as a case unlawful on procedural grounds.

An amended notification was submitted to the Surveillance Authority by letter dated 29 November 1994 (ref. 94-17492A), received by the Authority on the following day.

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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.

## 2. The aim and contents of the existing aid scheme

The objective of the transport aid is to partially compensate for the additional cost of transport of goods manufactured in the Åland islands. The aid is, thus, granted in order to reduce the extra costs of transport borne by enterprises as a result of the lack of road connection to the mainland.

As stipulated in section 1 of the law on transport aid<sup>3</sup>, aid is given to transports of goods within the Åland islands and to transports of goods from the islands to the mainland of Finland and to ports in Sweden. The amount of aid is determined by the length of transport and the means of transportation used. The grant is payable for transports by lorries covering a distance of not less than 101 kilometres. In certain island municipalities<sup>4</sup> businesses are eligible for aid even if transportation is undertaken by private means of transportation. Aid may also be given to transports by air.

Transport from the main Åland island to the mainland of Finland and to a port in Sweden by ship is counted to correspond to land transport covering a distance of 520 kilometres. Other factors such as waiting times, overtime compensation and return trips may be taken into account when the distance covered is determined. Apart from enterprises operating in Åland, also domestic associations, foundations and individuals with the regional citizenship may be eligible for transport aid.

The aid intensities applicable for the transports of goods within or starting from the Åland islands are stated in the table below. In the island municipalities referred to above the aid intensities are increased by six percentage points. As regards transportation by air, the aid may cover up to 35 % of the transport costs depending on the distance covered and the type of goods being transported.

<i>Distance of transport (km)</i>	<i>Aid intensity</i>
101 - 115	5 %
116 - 130	7 %
131 - 160	10 %
161 - 210	12 %
211 - 260	15 %
261 - 280	17 %
281 - 500	20 %
501 - 540	22 %
541 - 600	25 %
601 - 640	28 %
641 - 700	30 %
701 - 800	32 %
801 - 900	34 %
901 - 1000	36 %
1001 - 1140	38 %
over 1140	40 %

<sup>3</sup> *Landskapslag om transportstöd, 56/1973.*

<sup>4</sup> Brändö, Föglö, Kumlinge, Kökar, Sottunga and Vårdö.

Only transports per consignment whose cost exceeds FIM 71 are eligible for the aid. Furthermore, the total costs of transports must amount at least to FIM 3,000 during a quarter of the year or to FIM 12,000 during a calendar year. In certain island municipalities referred to above, the total costs of transports must amount at least to FIM 1,500 or FIM 6,000 respectively depending on the given term of application. The transport aid is payable, based on application from the consignor of the goods being transported, every quarter of the calendar year.

The goods eligible for the transport aid are food stuffs, rocks and soils and products therefrom, timber and wood articles, paper and pulp industry goods, metal industry goods, machinery and equipment, chemical industry products and textiles and clothing industry products.

### **3. The changes made to the scheme**

As the act on transport aid expired at the end of 1993, the authorities of the Åland islands amended the law in June 1994 by extending its applicability to transports undertaken from 1 January 1994 onwards. On 30 November 1994 the authorities notified, however, a plan to amend further the law by limiting its period of validity until the end of 1996.

The law has also been amended in such a way that the maximum rate of transport aid is reduced to 23 % for transports exceeding 500 kilometres while previously the aid could cover up to 40 % of the transport costs, as described in part I.2 above. The lowered aid intensity applies equally to transports by air. Moreover, the aid is now payable if the cost of transport per consignment is at least FIM 100, instead of FIM 71 as stipulated previously, while the requirement on the minimum total cost of transports continues to be FIM 12,000 during a given term of application (i.e. calendar year). The aid is payable, based on application submitted by 1 March, only once a year and no longer every quarter of the year.

## **II. APPRECIATION**

Since the aid is proposed to be granted in the form of a grant by the regional government authorities it, thus, shall be granted through State resources. As the aid is directed to enterprises that might be in competition with enterprises operating in other States participating in the EEA, the aid threatens to distort competition and affect trade within the territory covered by the EEA Agreement. Therefore, the foreseen measure 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).

An alteration of an existing aid scheme must be notified to the Authority in accordance with Article 1(3) of Protocol 3 to the Surveillance and Court Agreement before it is put into effect. In general such an alteration would require the Authority to assess the compatibility of a scheme as a whole with the EEA Agreement, unless the particularities of the amendment allow a separate assessment and, thus, can be decided upon independently.

The authorities of the Åland islands put the scheme into effect before it was notified. The Authority has, therefore, treated the case as unlawful on procedural grounds. However, as the transport aid is paid retrospectively for each term of application, no payments have yet been made on the basis of the law currently in force.

By virtue of the criteria for transport aid, as laid down in paragraphs (2) and (3) of section 28.2.3.2. of the State Aid Guidelines<sup>5</sup>, the Finnish authorities have a transitional period until the end of 1996 to bring the scheme in line with the rules on transport aid as stipulated in paragraph (2) of the same section.

According to the criteria for regional transport aid, as laid down in section 28.2.3.2 of the State Aid Guidelines, any plans to amend existing schemes of assistance to transport should contain a limitation in time and should never be more favourable than existing schemes in the relevant EFTA State.

As the aid intensities have been lowered and the requirement on the minimum cost of transport per consignment has been increased, as described in part I.3. above, the scope of aid has been restricted as a result of the amendments made to the law. The changes do not, therefore, lead to more favourable conditions in granting transport aid in Åland compared with those prevailing under the previous legislation. Moreover, the period of validity of the law apply only for years 1994-1996.

As regards the steel industries, aid to this sector can be granted only to research and development, environmental protection or for closures of plants, in accordance with the Act referred to in point 1 a of Annex XV to the EEA Agreement establishing Community rules for aid to the steel industry (Commission Decision No. 3855/91/ECSC). As the scheme on grant for transportation costs does not meet this requirement the authorities of the Åland islands are bound to exclude the granting of transport aid to the steel industries under the application of the scheme.

The amendment to the scheme on grant for transportation costs in Åland qualifies, on the basis of the above considerations, for exemption under Article 61(3)(c) of the EEA Agreement due to the fact that it facilitates the development of certain economic areas.

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<sup>5</sup> Procedural and Substantive Rules in the Field of State Aid, adopted by the EFTA Surveillance Authority on 19 January 1994 and amended by EFTA Surveillance Authority Decision of 20 July 1994.

**HAS ADOPTED THIS DECISION:**

1. The EFTA Surveillance Authority has decided not to raise objections to the amendment of the grant for transportation costs in Åland, as notified by letters dated 26 August, 17 October and 29 November 1994.
2. The Finnish Government is obliged to submit a detailed annual report (according to chapter 30 of and Annex III to the State Aid Guidelines) on the application of the scheme to the EFTA Surveillance Authority.

Done at Brussels, 7 December 1994

For the EFTA Surveillance Authority

  
Knut Almestad  
President

  
Heinz Zourek  
College Member