


EFTA SURVEILLANCE AUTHORITY

Doc. No. 94-19037I
Dec. No. 342/94/COL

EFTA SURVEILLANCE AUTHORITY DECISION

OF 30 DECEMBER 1994

ON CERTAIN AMENDMENTS OF THE FOLLOWING REGIONAL AID SCHEMES

LOCALISATION GRANT (AID No. 94-014, EX. 93-023),
LOCALISATION LOAN (AID No. 94-015, EX. 93-024),
DEVELOPMENT GRANT (AID No. 94-016, EX. 93-025)
DEVELOPMENT GRANT FOR LOCATION OF CERTAIN BUSINESS SERVICE ACTIVITIES
(AID No. 94-017, EX. 93-026)
AND
LOANS TO PRIVATE INVESTMENT COMPANIES (AID No. 94-065, EX. 93-027)

AND
TO CLOSE THE FILE ON AMENDMENTS TO THE EMPLOYMENT GRANT
(AID No. 94-018, EX. 93-029), DUE TO WITHDRAWAL OF NOTIFICATION

(SWEDEN)

THE EFTA SURVEILLANCE AUTHORITY,

Having regard to the Agreement on the European Economic Area¹, in particular to Protocol 26 and to Articles 61 to 63 of the Agreement,

Having regard to the Agreement between the EFTA States on the establishment of a Surveillance Authority and a Court of Justice², in particular to Article 24 and Article 1 of Protocol 3 thereof,

WHEREAS:

¹ Hereinafter referred to as the EEA Agreement.

² Hereinafter referred to as the Surveillance and Court Agreement.

I. FACTS

1. Notifications and procedural developments

By letter of 13 June 1994 (Doc. no. 94-8818A, 94-9167A, 94-9169A, 94-9171A, 94-9172A and 94-9173A), the Swedish authorities notified to the Surveillance Authority their plans to amend six regional aid schemes, including all the schemes under consideration, except for the scheme Loans to private investment companies (Aid No. 93-027), which is affected by a notification of 20 December 1994, as explained below. The notification of 13 June 1994 was based on the Government bill ("Regeringens proposition 1993/94:140") earlier presented to the Parliament, which is the result of a review of the Swedish regional policy.

For the schemes under consideration the proposed amendments consisted mostly of changes in budgets and some small changes in the aid awarding criteria. However, the Authority explained, i.a. in a letter of 8 July 1994 (Doc. no. 94-9894D), that in general assessment of planned amendments to existing State aid schemes, which had not been previously authorised or reviewed by the Authority, would inevitably involve assessment of all aspects of the relevant schemes, in order to ensure their compatibility with the EEA Agreement, and not only those aspects affected by the amendments. The Authority would therefore i.a. assess the geographical coverage of the schemes, the aid intensities applied in each case as well as the discretion left to the national authorities to deviate from the main rules on these and other aspects of the schemes.

By letter of 7 July 1994 (Doc. no. 94-10259A), the Swedish authorities notified their plans, pursuant to the Government Bill to Parliament 'Proposition 1993/94:140', to amend the existing regional aid areas. This notification included a draft ordinance on amendment of the ordinance (1990:642) on regional aid to enterprises ('Förordning om ändring i förordningen (1990:642) om regionalpolitiskt företagsstöd'). This notification constitutes an amendment of the above notifications of 13 June 1994 and will therefore be assessed jointly with other proposed amendments of the aid schemes.

By letter of 8 July 1994 (Doc. No. 94-9894D), the Surveillance Authority requested additional information on these notifications, i.a. statistical and other information which would explain the gravity of regional problems in the different aid areas and provide adequate justification for the geographical coverage of the aid schemes, the relatively high aid intensities which they allow in some regions, the possibility to allow even higher levels of aid in special cases and to authorize aid outside the designated aid areas.

The Swedish authorities responded to the above request by telefax dated 5 August 1994, received and registered by the Surveillance Authority on 8 August 1994 (Doc. No. 94-11914A).

By letter of 6 September 1994 (Doc. No. 94-13303D), the Surveillance Authority asked for additional information relating to all notified proposals for amendments of the Swedish regional aid schemes. In particular the Swedish authorities were requested to provide calculations of the aid ceilings in the existing regional aid schemes in net grant equivalent (NGE) terms and to provide additional information relating to

the provisions of the aid schemes which allow, in certain situations, aid to be awarded with aid intensity above the ceilings stipulated as the main rule and for the possibility to award aid to enterprises located in areas outside the designated aid areas.

By letter of 26 September 1994 (Doc. no. 94-14456A), the Swedish authorities notified amendments of Swedish structural aid areas and aid intensity in parts of Aid area 2. In the Authority's letter of 28 September 1994 (94-14467D), acknowledging the receipt of this notification, it was stated that the notification constitutes an amendment to the notification of 7 July 1994 (Notification of amendments of Swedish regional aid areas), and would be assessed jointly with that notification, together with other proposed amendments to the existing regional aid schemes, as notified by the Swedish authorities' letter of 13 June 1994.

By decision of 1 December 1994 (Dec. No. 216/94/COL), the EFTA Surveillance Authority proposed to Sweden certain appropriate measures with regard to the aid schemes covered by this decision, except for the scheme Development grant for location of certain business service activities (Aid No. 93-026).

By letter of 16 December 1994, received and registered by the Surveillance Authority on 19 December 1994 (Doc. no. 94-18585A) Sweden withdrew its notification of 13 June 1994 on amendments of the aid scheme Employment grant.

By telefax of 20 December 1994 (Doc. no. 94-18780A), Sweden notified certain amendments of the Swedish regional aid schemes. This notification is based on a Government Decision of 15 December 1994 to take certain measures, including to make the necessary proposals to the Parliament, to ensure that regional aid is fully compatible with the Surveillance Authority's Procedural and Substantive Rules in the Field of State Aid³. In the notification it is stated that the Government Decision also constitutes a response to the Surveillance Authority Decision of 1 December 1994 (Dec. No. 216/94/COL) to propose appropriate measures with regard to certain regional aid schemes and implies that Sweden accepts the proposed measures.

All in all seven meetings have been held between officials of the Surveillance Authority and the Swedish authorities on the regional aid schemes in Sweden. In these meetings the Authority's representatives have explained that examination of the aid schemes under consideration indicated that the legal provisions were not altogether compatible with the rules on regional aid and other relevant State aid rules as laid down in the State Aid Guidelines. Several documents providing supplementary information, relevant government bills, etc. have been handed over to the Authority's representatives in these meetings. This information includes i.a. calculations on aid intensities in net grant equivalent (NGE) terms.

2. Contents of the proposals

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 (OJ No L 231, 3.9.94). Hereinafter referred to as the State Aid Guidelines.

2.0 Amendments of regional aid areas (Aid No. 94-027) and other horizontal aspects

The present regional aid legislation in Sweden (Government ordinance SFS 1990:642 on regional aid to enterprises⁴) lays down three different assisted areas: Aid area 1 ("Stödområde 1"), Aid area 2 ("Stödområde 2") and Structural aid areas ("Tillfälligt stödområde"). The Localisation grant, Localisation loan and Development grant can be awarded to companies (in certain sectors) located within all these areas. The Development grant for location of certain business service activities is awarded to service companies which relocate in Aid area 1 or 2. The Loans to private investment companies are granted with the condition that the recipients can with the help of the loan only invest in companies which are eligible for regional aid under the ordinance SFS 1990:642. The Employment grant, which is not dealt with in substance by this decision, is awarded to companies located in Aid area 1 and 2. Hence, all the six aid schemes falling under the ordinance SFS 1990:642 are directly or indirectly linked to assisted areas defined in the ordinance. (Other regional aid schemes, in particular Transport aid and Reduced social security contributions, which also are not the subject of this decision, have separate aid maps). A detailed description of the Swedish regional aid schemes is given in the Internal Memorandum of 16 September 1994, annexed to this decision.

The notification of 7 July 1994 concerns the Aid area 1 and Aid area 2, which are defined in Art. 16 of the ordinance SFS 1990:642. These long-term aid areas are decided by the Parliament. They relate to all the six aid schemes under consideration, which fall under the above legislation.

According to the notification it is proposed to transfer nine small parishes from Aid area 2 to Aid area 1. The parishes are Edsele, Junsele, Ramsele and Ådals-Lidens parishes in the municipality of Sollefteå, former Solbergs kyrkobokföringsdistrikt in the municipality of Örnsköldsvik, Håsjö and Hällesjö parishes in the municipality of Bräcke, Kall parish in the municipality of Åre and Björksele parish in the municipality of Lycksele. These municipalities together have less than 11.000 inhabitants. When discussing the bill Parliament also decided to include three more parishes in Aid area 2. These parishes are Näs and Häggenås in the municipality of Östersund and Näskott in the municipality of Krokom. These three parishes together have less than 4.000 inhabitants.

The notification of 26 September 1994 concerns the Structural aid areas ("tillfälliga stödområden"), which according to Art. 18 of the ordinance SFS 1990:642 are decided by the Government. The Structural aid areas are relevant for the aid schemes Localisation grant, Localisation loan and Development grant. It is proposed to include five new municipalities or parts of municipalities into the Structural aid areas. These municipalities are Piteå (except former Markbygden civil registration district), Hudiksvall (the parish of Bjuråker), Rättvik (the parish of Ore), Lindesberg (the

⁴"Förordning om regionalpolitiskt företagsstöd", SFS 1990:642. References to the provisions of the ordinance (SFS 1990:642) shall henceforth be understood to mean the provisions of the ordinance (SFS 1990:642) as amended by the ordinances SFS 1991:18 and SFS 1992:662.

parishes of Guldsmidshyttan and Ramsberg) and Västervik. The total number of inhabitants in these five areas is about 89.000.

The notification of 26 September 1994 also concerns certain municipalities within the Aid area 2, which, on the basis of Art. 24 of the ordinance SFS 1990:642, are temporarily made eligible for the higher aid ceiling under the Localisation grant of 35% gross (as in Aid area 1), instead of 20%, which is the main rule for Aid area 2. It is proposed in the notification that two municipalities be added to those municipalities within Aid area 2, which shall temporarily be eligible for the higher Localisation grant of 35%. The new municipalities are Älvsbyn and Bjurholm, which together have a population of less than 13.000.

Annexed to the notification of 26 September 1994 was a draft amendment of the relevant Government ordinance ("Förordning om tillfälliga stödområden m.m.", SFS 1994:771).

Although none of the notifications under consideration proposes amendments concerning cumulation of aid from different sources it can be noted that Art. 11 of the ordinance SFS 1990:642, as amended by the ordinance SFS 1992:662, contains a general cumulation rule, according to which regional aid can be combined with other State aid if the following provisions are respected:

The combined aid intensity must not exceed the highest aid intensities applicable for the individual aid schemes and in the different aid areas falling under the ordinance. Total State aid in relation to investment must not exceed 70% in Aid area 1 and 50% in other aid areas. If there are special reasons the government or NUTEK (the National Board for Industrial and Technical Development) can grant exemption from the above provisions. However, a localisation grant can never exceed 50% of the eligible costs.

2.1 Localisation grant (Aid No. 94-014, ex. 93-023)

The budget allocation for the scheme will be increased. The details of this are rather complex, since there are separate appropriations placed at the disposal of the Government and NUTEK on the one hand and the County Administrative Boards ("Länsstyrelser") on the other, and as the scheme's budget appropriation is common with that of the schemes Development grant (Aid No. 93-025) and Aid to firms in sparsely populated areas (Aid No. 93-033). The allocation can also be used for infrastructure projects and to maintain social service in very sparsely populated areas. The overall budget increase is 19,7%.

In the notification of 20 December 1994 Sweden proposes certain aid intensities for the Localisation grant. These aid intensities have already been assessed and found compatible with the EEA Agreement by the Surveillance Authority Decision of 30 December 1994 (Dec. No. 337/94/COL) on the map of assisted areas and aid ceilings thereof (Sweden). In addition it is proposed that plans to award Localisation grant with an aid intensity above the ceiling stipulated in the map of assisted areas as well as Localisation grant to be awarded to companies located outside the designated assisted

areas be subject to individual prior notification to and approval by the EFTA Surveillance Authority. Aid awards under the Localisation grant to enterprises within the synthetic fibres, motor vehicles and steel industries, shall also be subject to prior notification in individual cases.

2.2 Localisation loan (Aid No. 94-015, ex. 93-024)

The Localisation loan is granted through an allocation which works as a revolving fund. This means that both repayments and defaults of loans will affect the sum available for granting new loans. On July 1993 the sum available for new loans amounted to 415 M.SEK. No budget increase is proposed by the notification.

The only amendment proposed to the scheme is to allow for the possibility that Localisation loans can also be granted for working capital of business service firms, which expand or locate in the aid areas.

2.3 Development grant (Aid No. 94-016, ex. 93-025)

The budget will be increased as described under "Localisation grant", i.e. an overall increase of 19,7%.

According to the notification of 13 June 1994, the maximum aid intensity - which has been 50% in all aid areas and with a nominal ceiling of SEK 500.000 - is as a main rule reduced to 35% in Aid area 1 and 20% in Aid area 2. It is also proposed that in special cases the aid may still amount to up to 50% of eligible costs, but then subject to repayment depending on the economic result of the supported project.

In the notification of 20 December 1994 it is proposed that the Development grant shall also be subject to the following aid ceilings:

In the so-called Target-6 area⁵ the Development grant may amount to up to 35% of eligible costs, and for small and medium-sized enterprises (SMEs), defined in conformity with the provisions of the State Aid Guidelines, the aid intensity can be up to 40% in this area. For enterprises located within the so-called Low population density area, but outside the Target-6 area, as well as in the Structural change areas, aid intensity can be up to 25% in general and 35% for SMEs.

In addition, it is proposed that Development grant which is to be granted in amounts higher than the above ceilings as well as Development grant to be awarded to companies located outside the designated assisted areas shall be subject to individual prior notification to and approval by the EFTA Surveillance Authority. The same applies to aid awards under the scheme to enterprises within the synthetic fibres, motor vehicles and steel industries.

⁵For a definition of this and other new assisted areas in Sweden see the Surveillance Authority Decision of 28 December 1994 on the map of assisted areas and aid ceilings thereof (Sweden).

The notification of 20 December 1994 also provides that the cost categories eligible for Development grant in support of research and development shall correspond to the eligible costs defined in the Surveillance Authority's State Aid Guidelines.

2.4 Development grant for location of certain business service activities (Aid No. 94-017, ex. 93-026)

The budget allocation "Lokaliseringsbidrag m.m." at the disposal of the Government and NUTEK (out of which this scheme, together with others, is funded) will be reduced from SEK 350 million to SEK 300 million.

In the Government ordinance SFS 1990:642 eligible costs and aid intensities for this scheme are not fixed in a transparent manner. In the notification of 13 June 1994 it is proposed to introduce explicit ceilings, i.e. that support to business service activities relocated in the assisted areas shall be granted with a maximum amount of SEK 250.000 per new job in Aid area 1 and SEK 150.000 in Aid area 2 and Structural aid areas.

In the Government bill, which forms the basis for the notification of 13 June 1994, it is foreseen that the Development grant will only be awarded for immaterial investments. Therefore, the aid to the location of new service jobs will be awarded under the allocation for the Localisation grant. Hence, the scheme's name shall be changed from "Development grant for location of certain business service activities" to "Localisation grant for location of certain business service activities".

The notification of 20 December 1994 proposes that aid under the scheme shall also be subject to the ceilings applicable to the Localisation grant (investment aid ceiling), which are identical to the above ceilings for the Development grant. The following shall be the eligible costs, to which the ceilings can be applied: costs of transfer of relocation of machinery and equipment ("inventarier"), new investments in machinery and equipment ("inventarier"), research and development costs, defined in accordance with the provisions of the State Aid Guidelines, and recruitment and training costs for newly employed employees, in connection with the start-up or expansion of an activity.

2.5 Loans to private investment companies (Aid No. 94-065, ex. 93-027)

No amendments were proposed to this scheme in the notification of 13 June 1994, although the proposed changes of the aid areas relate to this scheme as others.

The notification of 20 December 1994 proposes that the terms of the loan shall be formulated in such a manner that an eventual subsidy, e.g. in the form of interest rates being fixed in the initial period below the reference rate of interest used by the Surveillance Authority, shall later be repaid through higher interest rates or by other appropriate means ("på annat lämpligt sätt"). To the extent that loans are considered to constitute State aid, they shall on a case-by-case basis be subject to prior notification to and approval by the EFTA Surveillance Authority.

2.6 Withdrawal of amendments to Employment grant (Aid No. 94-018, ex. 93-029)

By letter of 16 December 1994 (Doc. no. 94-18585A) the Swedish authorities have withdrawn the proposed amendments to this scheme (which involved a 25% increase in the Employment grant), as notified by letter of 13 June 1994 (Doc. No. 94-9172).

II. APPRECIATION

1.0 Geographical coverage and ceilings on investment aid as well as other horizontal considerations

By its decision of 30 December 1994 (Dec. No. 337/94/COL) on the map of assisted areas for Sweden, the Surveillance Authority has decided on the geographical limits of regional aid as well as on the maximum aid ceilings of regional investment aid. However, the maps for the individual aid schemes, based on the present regional aid legislation, are not abandoned by that decision. It is therefore necessary to assess whether they fall within the limits set by the new map.

The municipalities within Aid area 1 and 2 all fall within the Low population density area, as defined by the Surveillance Authority Decision of 30 December 1994 (Dec. No. 337/94/COL) on the map of assisted areas and aid ceilings thereof (Sweden), with the exception of the following municipalities of Aid area 2:

Hofors municipality in Gävleborg län,

Avesta, Smedjebackens and Ludvika municipality in Kopparbergs län,

Fagersta, Norbergs and Skinnskattebergs municipalities in Västmanlands län,

Hällefors and Ljusnarsbergs municipalities in Örebro län, and

Filipstads, Hagfors and Munkfors municipalities in Värmlands län.

However, all the above municipalities belong to the Structural change areas as defined by the above Surveillance Authority Decision of 30 December 1994 (Dec. No. 337/94/COL). The maximum aid intensities within the Structural change areas are as a general rule the same as in the Low population density area outside the Target-6 area and not lower than in the present Aid area 2. Consequently, the municipalities listed above have, by the Surveillance Authority Decision of 30 December 1994 (Dec. No. 337/94/COL), also been found eligible for regional aid and the respective aid intensities in the present legislation do not exceed the limits fixed by that decision. However, by

proposing the above municipalities as Structural change areas the Swedish authorities have undertaken to change their status from long-term to temporary aid areas.

According to the present legislation maximum aid intensity for investment aid in Aid area 1 is 35% (gross). The new map of assisted areas allows the same aid intensity in the Target-6 area (and 40% for SMEs in that area), but only 25% in the Low population density area outside the Target-6 area and 35% for SMEs. It is therefore necessary to examine whether any part of the Aid area 1 falls outside the Target-6 area, which would be contrary to the limitations on aid intensities laid down in the map of assisted areas. However, a comparison of the two areas reveals that all municipalities and parishes of Aid area 1 fall within the boundaries of the Target-6 area.

With reference to the above considerations it can be concluded that the geographical delimitation of the Aid area 1, Aid area 2 and Structural aid areas and the ceilings on investment aid, as presently laid down in the ordinance SFS 1990:642, including the proposed amendments according to the notifications of 7 July 1994 and 26 September 1994, are consistent with the map of assisted areas and aid ceilings thereof (Sweden), as determined by the Surveillance Authority Decision of 30 December 1994 (Dec. No. 337/94/COL). Proposed ceilings on aid other than investment aid will be assessed below under the relevant aid schemes.

It is also concluded that, when viewed in conjunction with other limitations on aid ceilings which Sweden has agreed to introduce (see i.a. section II.1.1 below), Art. 11 of the ordinance SFS 1990:642, provides for adequate control of cumulation of aid from different sources, to ensure that the aid ceilings of the map of assisted areas will not be trespassed by combining aid from different sources to finance the same investment.

1.1 Localisation grant (Aid No. 93-023)

By decision of 25 May 1994 (Dec. No. 41/94/COL) the Surveillance Authority has announced that changes in budgets of already notified existing aid schemes need not be notified in accordance with Article 1(3) of Protocol 3 to the Surveillance and Court Agreement, if the annual budget of a scheme is increased by not more than 20%, calculated in ECUs, in relation to the initial annual amount, provided that the scheme concerned is of indefinite duration or the increase takes place during the period of validity of a fixed-duration scheme. The budget increase for the scheme under consideration is 19,7%, measured in Swedish kronor. As the krona has in the meantime depreciated against the ECU, the increase in ECUs will be lower. The above decision of the Authority of 25 May 1994 implies that budget increases within the stipulated limits are deemed not to affect the compatibility of aid schemes. Consequently, the budget adjustment for the Localisation grant is considered to be compatible with the EEA Agreement.

Art. 23 of the ordinance SFS 1990:642 allows for the possibility for the Government or NUTEK to award Localisation grant with aid intensity above the ceilings of 20% and 35% stipulated as the main rules of the scheme, up to a maximum of 50%. The

Surveillance Authority Decision of 1 December 1994 (Dec. No. 216/94/COL) included the proposal to Sweden, as an appropriate measure, to delete this option, as it could generally not be seen to be compatible with the rules on regional aid. Similarly, Art. 19 of the ordinance authorizes the Government in certain circumstances to award localisation aid and Development grants within municipalities outside the designated aid areas. By the above decision the Surveillance Authority has proposed to Sweden to make any such aid awards subject to prior notification to and approval by the EFTA Surveillance Authority.

As mentioned earlier the notification of 20 December 1994 contains the undertaking, in the Government Decision on which it is based, that Localisation grant to be awarded above the normal aid ceilings or to companies located outside the designated assisted areas, as well as such aid to be given to enterprises within the synthetic fibres, motor vehicles and steel industries, shall be subject to individual prior notification to and approval by the EFTA Surveillance Authority. The Surveillance Authority considers this arrangement to be acceptable and an adequate response to the respective points in its decision, referred to above, on appropriate measures with regard to the aid scheme.

With reference to the above consideration the aid scheme in its amended form is considered compatible with the EEA Agreement.

1.2 Localisation loan (Aid No. 93-024)

No budget increase is proposed for this scheme. The only amendment proposed is that the Localisation loan also can be granted for working capital of business service firms, which expand or relocate in the aid areas. In order to assess this planned amendment it is appropriate to recollect the basic features of this instrument.

The Localisation loan was introduced in 1992 to complement the Localisation grant. It is mostly governed by the same legal provisions and limitations as the Localisation grant, e.g. as concerns geographical coverage, eligible activities, eligible costs and cumulation control. It follows that the limitations on the geographical coverage laid down in the map of assisted areas as well as those introduced by the Swedish Government Decision of 15 December 1994 (aid outside designated aid areas and to sensitive industrial sectors subject to prior notification) are also applicable to this scheme.

The loan can amount to up to 70% of eligible costs in Aid area 1 and 50% in other areas. If the loan is combined with a Localisation grant, the overall state financing must not exceed these ceilings. Under special circumstances the Government or NUTEK can award higher Localisation loans.

The loan bears an interest rate corresponding to the prevailing official discount rate ("diskontot") plus a premium of 4,25%. NUTEK can in exceptional cases decide to waive interest claims for up to 5 years, and the Government can grant further relief. Repayment is variable up to a maximum of 20 years, depending on the lifetime of the investment. A grace period of up to 5 years can be allowed, and can be further

extended by the Government. Collateral is determined on a case-by-case basis depending on the economic situation of the recipient.

Interest rates in Sweden have increased rather sharply during the course of this year. The official discount rate was 4,5% in the first three months of the year, but is at present 7,0%. The Localisation loans would therefore at present bear an interest rate of 11,25%, which is close to market rates for comparable loans, but considerably higher than the present 8% reference rate of interest for Sweden, which was fixed by the EFTA Surveillance Authority Decision of 11 May 1994 (Dec. No. 37/94/COL). The somewhat flexible provisions on security for the loan and the authorization for NUTEK and the Government in exceptional circumstances to waive interest claims may involve State aid. Nevertheless, given the relatively strict terms of the loan and the fact that the budget allocation for the loans works as a self-financing, revolving fund, the aid element is likely to be only insignificant. On this basis it is concluded that the aid scheme in its amended form is acceptable.

1.3 Development grant (Aid No. 93-025)

The proposed budget increase can be accepted on the same premises as for the Localisation grant.

The cost categories eligible for support under the scheme are defined in a brief manner in the second and third paragraphs of Art. 48 of SFS 1990:642, as "investment expenditures in the form of patents, licences, marketing, product development, training and the like. Normal operating costs of enterprises are not eligible for the grant." From the perspective of State aid control this indicates that the scheme can support expenditures falling under the scope of three different sets of rules: regional investments aid (patents, licences), aid for research and development (product development) and so-called soft aid for SMEs (marketing, training).

The notification of 20 December 1994 provides that the cost categories eligible for Development grant in support of research and development shall correspond to the eligible costs defined in the Surveillance Authority's State Aid Guidelines. Otherwise it does not elucidate the above somewhat intransparent definition of eligible costs.

The proposals on aid intensity for the scheme contained in the notifications of 13 June 1994 and 20 December 1994 partly overlap. When these two are merged, together with the provisions of the existing legislation (i.e. Art. 51 of SFS 1990:642), the net result, based on clarification given by the Swedish authorities, is understood to be the following rule on aid intensity:

In the Target-6 area the Development grant may amount to up to 35% of eligible costs, and for small and medium-sized enterprises (SMEs), defined in conformity with the provisions of the State Aid Guidelines, the aid intensity can be up to 40% in this area. For enterprises located within the so-called Low population density area, but outside the Target-6 area, as well as in the Structural change areas, aid intensity can be up to 25% in general and 35% for SMEs. In special cases the aid may amount to up to

50% of eligible costs, but then subject to repayment depending on the economic result of the supported project, i.e. aid in this case is in the form of a conditional repayment credit. Development grant to be awarded in excess of the above aid ceilings (cf. second paragraph of Art. 51 of SFS 1990:642) as well as to enterprises located outside the designated assisted areas is subject to prior notification to and approval by the EFTA Surveillance Authority. The same is true for aid under the scheme to be awarded to enterprises within the synthetic fibres, motor vehicle and steel industries.

The above proposed aid intensities should be assessed against the three sets of rules applicable to the cost categories involved. The above aid intensities are identical to those of the Localisation grant (regional investment aid), which have been assessed and found compatible with the EEA Agreement in the Surveillance Authority Decision on the map of assisted areas and aid ceilings thereof. Consequently, to the extent that the Development grant finances investment expenditures, the above aid ceilings are acceptable. The option of awarding the support in the form of a 50% conditional repayment credit is not considered to be relevant as far as normal investment expenditures are concerned.

With regard to aid for research and development the admissible aid ceilings are, according to established policy of the EFTA Surveillance Authority, 50% for basic research and 25% for applied research and development (including product development). When the support is awarded not in the form of an outright grant, but as a conditional repayment loan, which can be written off only if the project is proven to be a failure, 40% of costs can be supported. If relevant these ceilings can be enhanced by a 10% top-up for SMEs and 5% for enterprises located in areas eligible for regional aid under Article 61(3)(c) of the EEA Agreement. However, if the two top-ups are combined, the enhancement is reduced to 12,5%.

This implies that applied research and development by enterprises located in the Swedish assisted areas (which are all c-areas) is eligible for aid up to the level of 30% and 45% when given in the form of a conditional repayment loan. When the recipient is an SME the corresponding admissible ceilings are 37,5% (grant) and 52,5% (conditional repayment loan). The proposed aid ceiling of 35% in the Target-6 area overshoots the above limit by 5 percentage points, and the proposed ceiling of 40% for SMEs in the Target-6 area is 2,5 percentage points higher than the admissible limit. Similarly the proposed ceiling of 50% for support in the form of a conditional repayment loan is 5 percentage points above the admissible ceiling for non-SMEs in c-regions. Otherwise the proposed ceilings are within the limits of the Surveillance Authority's policy outlined above.

The rules on aid to SMEs provide, in section 10.4.3 of the State Aid Guidelines, that aid of up to 50% gross is generally accepted to finance outside consultancy help, training and dissemination of knowledge. This can also include the building up of competences and expertise on marketing within enterprises, e.g. with the help of outside consultants, but soft aid expenditures should generally only meet one-off needs and must not include normal operating expenses.

As mentioned earlier eligible costs for the Development grant are defined as "investments" in i.a. marketing and training. It is also explicitly stated that normal

operating costs are not eligible for aid. These cost categories in other words appear to be of a one-off nature and to be eligible for 50% "soft aid". It also appears likely that this aid is in practice predominantly awarded to small and medium-sized enterprises. The proposed aid ceilings for the scheme, which in most cases are well below 50%, are therefore well justified, to the extent that the scheme involves "soft aid".

The above assessment has revealed that the proposed aid ceilings are in some cases slightly higher than what is considered generally acceptable intensity of aid for applied research and development in c-regions. However, this difference is mostly confined to the proposed ceilings for the Target-6 areas. It can be argued that this discrepancy is compensated firstly by the fact that in the Low population density area outside the Target-6 area the proposed intensities for the grant are below what is admissible and secondly, that as far as soft-aid expenditures are concerned the scheme does not make full use of the admissible aid ceilings. On this basis the proposed aid ceilings are deemed to be acceptable.

With reference to the above considerations it is concluded that the aid scheme in its amended form is compatible with the EEA Agreement.

1.4 Development grant for location of certain business service activities (Aid No. 93-026)

The proposed budget change involves a reduction in funding and therefore requires no assessment.

The Swedish authorities have in response to requests by the State Aid and Monopolies Directorate endeavoured to clarify the cost categories supported under the scheme. By telefax of 19 December 1994 the Ministry of Labour has communicated a memorandum indicating the cost categories which have been supported under the scheme, based on experience on the relocation of some 140 service companies in the period December 1987 to December 1994. According to this examination the composition of the cost categories supported by the scheme has been as follows:

	SMEs Share of total costs	Other enterprises Share of total costs
Costs of transfer of machinery	20%	30%
Investment in equipment, fixtures and furniture ("inventarieanskaffning")	35%	20%
R&D expenditures	35%	40%
Recruitment and training costs	10%	10%
Total	100%	100%

By applying the relevant admissible aid ceilings, according to the State Aid Guidelines, and, as concerns investments in equipment, fixtures and furniture, the investment aid ceilings fixed in the map of assisted areas, the Swedish authorities come to the conclusion that the average admissible ceiling should be 50% for SMEs (52% within the Target-6 area) and 48% for other companies (49% within the Target-6 area).

By the Government Decision notified on 20 December 1994 Sweden has agreed to introduce - in addition to the criterion of certain amounts per job transferred (as proposed by the notification of 13 June 1994) - an explicit and exhaustive listing of the eligible costs. Aid in support of these costs is then made subject to the same ceilings as applicable to the Localisation grant and the Development grant.

The following cost categories are proposed to be eligible for support under the scheme: costs of transfer of relocation of machinery and equipment, new investments in machinery and equipment, research and development costs, defined in accordance with the provisions of the State Aid Guidelines, and recruitment and training costs for newly employed employees, in connection with the start-up or expansion of an activity.

The above support falls under the scope of three different sets of State aid rules: rules on regional aid, on aid for R&D and on aid to SMEs (section 10.4.3 of the State Aid Guidelines on "soft aid").

As far as regional investment aid is concerned the proposed cost categories (cost of transfer of machinery and equipment and new investments in machinery and equipment) are eligible under the regional aid rules. The aid intensities are compatible as they correspond to those approved by the Surveillance Authority Decision on the map of assisted areas and aid ceilings thereof (Sweden). It should be noted, however, that according to the rules on regional aid (in particular section 26.1 of the State Aid Guidelines), cost of transfer of capital equipment is, in the case of transfer of an establishment to an aided region, eligible for 100% aid, whereas the proposed aid ceilings, also with respect to that cost category, range between 25 and 40% gross.

With regard to research and development and soft-aid costs it is sufficient to refer to the argumentation, in section II.1.3 above, on aid intensities for such cost categories under the Development grant. This implies that the proposed aid intensities in the Target-6 area are slightly above what has generally been considered admissible under the rules on aid for R&D. Otherwise the proposed ceilings are below the maximum aid intensities of the R&D and SME (soft-aid) rules.

It can be observed that in two respects there is a slight difference compared to the Development grant, which however may be more textual than real. Firstly, whereas under the Development grant aid for R&D appears confined to product development, the proposed amendment concerning the present scheme speaks of R&D costs in general, meaning that support for basic research may also be involved, in which case higher aid intensity is admissible. Secondly, the present scheme provides aid exclusively in the form of an outright grant and does not allow for the option to award aid in the form of conditional repayment loans, up to 50% of costs. Both these factors reduce the likelihood that aid for R&D is awarded above the admissible ceilings.

With reference to the above information on the composition of the costs supported under the scheme as well as to the fact that Sweden proposes not to make full use of maximum admissible aid intensities in respect of certain cost categories (in particular costs of transfer of capital equipment and soft-aid costs), the proposed aid intensities are considered acceptable, even though they may imply that the maximum ceilings for R&D aid will in some cases be exceeded by a small margin.

With reference to the above considerations it is concluded that the aid scheme in its amended form is compatible with the EEA Agreement.

1.5 Loans to private investment companies (Aid No. 93-027)

It can be recalled that in the Surveillance Authority Decision of 1 December 1994 (Dec. No. 216/94/COL) to propose appropriate measures to Sweden with regard to certain regional aid schemes it was decided, due to the absence of clear aid awarding criteria for this scheme, to propose an adjustment of the relevant legal provision (Art. 7 of SFS 1990:642) in such a way that the granting of loans to investment companies shall, when involving State aid, be made subject to prior notification to and approval by the EFTA Surveillance Authority.

The notification of 20 December 1994 proposes to introduce certain provisions concerning the terms of the loan, as explained in section 1.2.5 above. These amendments, though, do not provide fully explicit aid awarding criteria for the scheme. However, the Swedish authorities also propose that to the extent that loans are considered to constitute State aid, they shall on a case-by-case basis be subject to prior notification and approval by the EFTA Surveillance Authority. On the basis of this proposal, which corresponds to the measure earlier proposed to Sweden, it is concluded that the proposal may be accepted, as it will, when relevant, ensure that an assessment can take place, prior to the granting of a loan, of the possible State aid involved and whether such aid qualifies for exemption under one of the exemption clauses in Article 61 of the EEA Agreement.

1.6 Closing of the file on amendments to the Employment grant

Due to the withdrawal of the notification on the planned amendments of the Employment grant the case at hand has to be closed.

HAS ADOPTED THIS DECISION:

The EFTA Surveillance Authority has decided

1. Not to raise objections to the proposed amendments of the aid schemes Localisation grant, Localisation loan, Development grant, Development grant for location of certain business service activities and Loans to private investment

companies as well as proposed amendments to the regional aid areas under the existing legislation, as notified by letters of 13 June 1994 (Doc. no. 94-8818A, 94-9167A, 94-9169A and 94-9171A), 7 July 1994 (Doc. no. 94-10259A), 26 September 1994 (Doc. no. 94-14456A) and 20 December 1994 (Doc. no. 94-18780A).

2. To close the case on amendments of the aid scheme Employment grant (Aid no. 94-018), as notified by letter of 13 June 1994 (Doc. no. 94-9172A), due to withdrawal of the notification.

3. Sweden is obliged to submit detailed annual reports, according to Chapter 30 of the Surveillance Authority's Procedural and Substantive Rules in the Field of State Aid, on the schemes Localisation grant, Development grant and Localisation grant for location of certain business service activities, as well as simplified annual reports, according to the same Chapter, on other regional aid schemes.

Done at Brussels, 30 December 1994

For the EFTA Surveillance Authority


Knut Almestad
President


Heinz Zourek
College Member