

Case No: 68188
Event No: 555493
Dec. No: 267/10/COL

EFTA SURVEILLANCE AUTHORITY DECISION
of 1 July 2010
on a state aid scheme for railway sidings and freight terminals

Norway

1. Procedure and description of the measure

1.1. Procedure

In a letter dated 21 April 2010, the Norwegian authorities notified a state aid scheme for railway sidings and freight terminals to the Authority. The measure was notified under the Authority's Guidelines on a simplified procedure for treatment of certain types of state aid.¹ The Authority is of the view that the scheme is suitable for assessment under the simplified procedure in view of the provisions of Council Regulation 1370/07² and existing Commission precedent approving similar schemes (point 5(b) of the Guidelines). In accordance with the simplified procedure a summary of the notification was published on the State Aid Register of the website of the Authority and in the European Commission's State Aid Weekly e-news on 21 May 2010.³

1.2. Description

The objective of the scheme is to encourage freight transport by rail as opposed to by road. The scheme will subsidise the cost of developing additional infrastructure necessary to use rail services, subject to a maximum of 50% of eligible costs and to a ceiling based on the overall environmental benefit (estimated externality cost savings) of using the rail service. The funding of the scheme depends on annual budgetary resolutions by the Parliament and is NOK 5 million for 2010.

2. Assessment of the measure

2.1. Existence of state aid

The measure involves the use of state resources to provide a selective economic advantage that would not otherwise be available to companies that invest in developing rail infrastructure. The measure may also indirectly benefit rail operators to the detriment of other transport modes. Norwegian rail transport markets are open to competition, and in consequence the measure has the potential to distort competition, and, given also that access to the European market for road transport is fully liberalised⁴, provision of support to develop rail services as a substitute to road transport will affect trade between the

¹ Available at: <http://www.eftasurv.int/media/state-aid-guidelines/Part-II---Guidelines-on-a-simplified-procedure-for-treatment-of-certain-types-of-state-aid.pdf>

² Regulation (EC) No 1370/2007 of the European Parliament and of the Council of 23.10.2007 on public passenger transport services by rail and by road and repealing Council Regulations (EEC) Nos 1191/69 and 1107/70, OJ L 315 p.1, 3.12.2007.

³ <http://www.eftasurv.int/media/state-aid-notifications/Simplified-Procedure-Summary-of-Notification.pdf>

⁴ Council Regulation (EEC) 3118/93, OJ L 279, 12.11. 1993 p.1, incorporated into the EEA Agreement by Decision No 7/94 of 21 March 1994 of the EEA Joint Committee.

contracting parties to the EEA Agreement. The Authority therefore concludes that the scheme involves state aid within the meaning of Article 49 of the EEA Agreement.

2.2. Compatibility of the aid

Article 49 of the EEA Agreement provides that aid will be compatible with the Agreement if it meets the needs of coordination of transport. Article 9(2)(a) of Council Regulation 1370/07 clarifies this provision and states that member states may provide aid compensating transport companies for infrastructure expenses that companies engaged in other modes of transport do not have to bear. The Authority is of the view that the aid to be provided under the scheme is consistent with this Article and with the previous practice of the European Commission.⁵ In contrast to other schemes approved by the Commission, the Norwegian scheme does not envisage any mechanism for repayment of aid if the projected transfer of freight volume from road to rail does not occur. The Authority, however, agrees with the Norwegian authorities that a condition that the aid be granted only for investments that have no alternative value to transport of freight by rail, and a model to assess the expected environmental benefit of the aid, are sufficient to ensure that the objective of the scheme is not undermined.

3. Decision

On the basis of the above assessment, the Authority concludes that the Norwegian state aid scheme for railway sidings and freight terminals is compatible with Article 49 of the EEA Agreement.

The Norwegian authorities are reminded of the obligation under Article 21 of Part II of Protocol 3 in conjunction with Articles 5 and 6 of the Authority's Decision No 195/04/COL of 14 July 2004 on the implementing provisions referred to under Article 27 of Part II of Protocol 3 to provide annual reports on the implementation of the scheme. They are also reminded that all plans to modify this scheme must be notified to the Authority.

This decision is addressed to the Kingdom of Norway.

Decision made in Brussels, on 1 July 2010

Only the English language version of the decision is authentic.

For the EFTA Surveillance Authority

Per Sanderud
President

Sverrir Haukur Gunnlaugsson
College Member

⁵ See for example Freight Facilities Grant (UK) N 649/2001 (originally adopted in the 1970s); Programme for the development of railway sidings (Austria) N726/1995 & N643/2001; and Guidelines on funding for the construction, extension and reactivation of private railway sidings (Germany) N170/2004 & N 184/2009. Article 9(2)(a) of Regulation 1370/07 replicates Article 3(1)(b) of Council Regulation (EEC) No. 1107/70 on the granting of aids for transport by rail, road and inland waterways (as amended) (OJ L 130 of 15.06.1970, p.1) which formed the basis for the Commission's approval of these similar schemes.