

Case No: 60134
Event No: 378176
Dec. No: 226/06/COL

EFTA SURVEILLANCE AUTHORITY DECISION
of 19 July 2006
on the map of assisted areas and levels of aid
(Norway)

THE EFTA SURVEILLANCE AUTHORITY¹,

Having regard to the Agreement on the European Economic Area², in particular to Articles 61 to 63 and Protocol 26 thereof,

Having regard to the Agreement between the EFTA States on the establishment of a Surveillance Authority and a Court of Justice³, in particular to Article 24 thereof,

Having regard to Article 1(3) in Part I and Article 4(3) in Part II of Protocol 3 to the Surveillance and Court Agreement,

Having regard to the Authority's Guidelines⁴ on the application and interpretation of Articles 61 and 62 of the EEA Agreement, and in particular Chapter 25.B on "National Regional Aid 2007 – 2013" thereof,

Whereas:

I. FACTS

1. Procedure

By letter of 12 June 2006 from the Royal Ministry of Government Administration and Reform, received and registered by the Authority on 12 June 2006 (Event No: 377954), the Norwegian authorities notified, pursuant to Article 1(3) in Part I of Protocol 3 to the Surveillance and Court Agreement, a new map of assisted areas and levels of aid in Norway to be applicable from 1 January 2007 to 31 December 2013.

2. Background

¹ Hereinafter referred to as the Authority.

² Hereinafter referred to as the EEA Agreement.

³ Hereinafter referred to as the Surveillance and Court Agreement.

⁴ 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, published in OJ 1994 L 231, EEA Supplements 03.09.94 No 32. The Guidelines were last amended on 9 April 2006. Hereinafter referred to as the State Aid Guidelines. The State Aid Guidelines are accessible on: <http://www.eftasurv.int/fieldsOfWork/fieldstateaid/guidelines/>.

By letter of 6 April 2006 from the Authority to the Norwegian Mission to the European Union (Event No: 369211), the Norwegian authorities were informed that the Authority had adopted new guidelines on national regional aid for 2007 – 2013 in the form of a new Chapter 25.B of the State Aid Guidelines.

Furthermore, the Authority proposed, under Article 1(1) in Part I of Protocol 3 to the Surveillance and Court Agreement, that the Norwegian authorities accept the appropriate measures set out in Chapter 25.B.8 of the State Aid Guidelines⁵.

By letter of 10 May 2006 from the Mission of Norway to the European Union, received and registered by the Authority on 11 May 2006 (Event No: 373737), the Norwegian authorities accepted the proposed appropriate measures.

The new Chapter 25.B of the State Aid Guidelines establishes that national investment aid may be granted to further the economic development of certain disadvantaged regions. For the EFTA States to be able to grant such aid, a map of assisted areas has to be notified and approved by the Authority.

Low population density regions, at the outset defined as NUTS level III⁶ regions with less than 12.5 inhabitants per square kilometre, would qualify for inclusion in the map. There is, however, an opening for certain flexibility in defining the assisted areas. Parts of NUTS level III regions may also qualify if these parts have low population density, if the overall population in the assisted areas does not increase as a result, and if these areas are contiguous with the NUTS level III regions satisfying the low population density test.

3. Description of the proposed map

3.1 Methodology and coverage: geographical units

In Norway, NUTS level III regions correspond to counties and NUTS level V to municipalities. Norway has currently 19 counties and 431 municipalities⁷.

Norway has nine NUTS level III regions with less than 12.5 inhabitants per square kilometre. These are the following counties: Finnmark, Troms, Nordland, Nord-Trøndelag, Sogn og Fjordane, Hedmark, Oppland, Telemark and Aust-Agder.

The four entire NUTS level III regions Finnmark, Troms, Nordland and Sogn og Fjordane are proposed eligible for national regional aid.

Only certain parts of the other five low population density counties (Nord-Trøndelag, Hedmark, Oppland, Telemark and Aust-Agder) are proposed to be included in the map.

The Norwegian authorities consider that a regional aid map based strictly on NUTS level III would not reflect the real situation in Norway as regards regional challenges related to sparse population, climatic conditions and economic disadvantages. The Norwegian

⁵ Paragraph (92).

⁶ As defined in “*Statistical regions in the EFTA countries and in the candidate countries*”, 2001 edition by the Commission of the European Communities and the Statistical office of the European Communities.

⁷ The population data hereafter is that on 1 January 2005.

authorities have therefore proposed on the basis of the flexibility rules to exclude from the five low population density counties certain parts that are not considered to be in need of regional aid and to include “NUTS III parts” meeting the low population density test in contiguous NUTS III regions with higher population density. This allows the Norwegian authorities to exclude “strong” municipalities in counties satisfying the low population density criterion and to include “weak” municipalities in counties that do not meet this criterion.

Areas in low population density counties excluded from the regional aid map

Table 1 below shows the areas that the Norwegian authorities have excluded from the NUTS level III regions satisfying the low population density test.

Table 1:

COUNTY	MUNICIPALITIES
NORD-TRØNDELAG	Stjørdal, Levanger
AUST-AGDER	Iveland, Birkenes, Froland, Lillesand, Arendal, Grimstad
TELEMARK	Bamble, Siljan, Skien, Porsgrunn
OPPLAND	Gran, Lunner, Jevnaker, Vestre Toten, Østre Toten, Gjøvik, Lillehammer, Øyer
HEDMARK	Elverum, Sør-Odal, Nord-Odal, Stange, Løten, Ringsaker, Hamar

The areas excluded have a total population of 445 006 inhabitants.

Areas in high population density counties included in the regional aid map

Table 2 below shows in counties with more than 12.5 inhabitants per square kilometre the areas that the Norwegian authorities have included in the regional aid map on the basis of the flexibility rules.

Table 2:

COUNTY	MUNICIPALITIES
SØR-TRØNDELAG	Tydal, Selbu, Midtre Gauldal, Holtålen, Røros, Meldal, Rennebu, Oppdal, Osen, Roan, Åfjord, Bjugn, Rissa, Agdenes, Ørland, Frøya, Hitra, Snillfjord, Hemne
MØRE OG ROMSDAL	Aure, Smøla, Halså, Rindal, Surnadal, Sunndal, Tingvoll, Gjemnes, Averøy, Eide, Aukra, Sandøy, Midsund, Nasset, Rauma, Vestnes, Haram, Stordal, Stranda, Norddal, Ørsta, Volda, Herøy, Sande, Vanylven, Kristiansund, Frei

HORDALAND	Masfjorden, Fedje, Modalen, Vaksdal, Austevoll, Samnanger, Kvam, Voss, Granvin, Ulvik, Eidfjord, Ullensvang, Odda, Jondal, Kvinnherad, Tysnes, Fitjar, Etne
ROGALAND	Vindafjord, Utsira, Kvitsøy, Finnøy, Sauda, Suldal, Hjelmeland, Lund, Sokndal
VEST-AGDER	Sirdal, Kvinesdal, Hægebostad, Audnedal, Åseral, Marnardal, Flekkefjord, Farsund
BUSKERUD	Nore og Uvdal, Rollag, Flesberg, Krødsherad, Sigdal, Hol, Ål, Hemsedal, Gol, Nes, Flå
ØSTFOLD	Rømskog, Marker, Aremark

The areas included have a total population of 374 739 inhabitants and an average population density of 5.8 inhabitants per square kilometre.

Table 3 below indicates the population and population density in all the NUTS level III regions / NUTS III parts proposed eligible for regional aid.

Table 3:

NUTS LEVEL III / PARTS OF NUTS LEVEL III	POPULATION 2005	POPULATION DENSITY (/KM²)
ØSTFOLD*	5331	6.0
HEDMARK^o	71 875	3.2
OPPLAND^o	70 611	3.3
BUSKERUD*	32 291	3.1
TELEMARK^o	65 680	4.7
AUST-AGDER^o	25 826	3.8
VEST-AGDER*	31 942	6.0
ROGALAND*	29 510	6.2
HORDALAND*	73 630	5.9
SOGN OG FJORDANE'	107 032	5.7
MØRE OG ROMSDAL*	132 586	9.9
SØR-TRØNDELAG*	68 480	4.1
NORD-TRØNDELAG^o	90 881	4.4
NORDLAND'	236 825	6.2
TROMS'	152 741	5.9
FINNMARK'	73 074	1.5
TOTAL	1 268 515	4.5

*NUTS level III parts proposed eligible by applying the flexibility rules (see table 2 above).

^oLow population density counties which are not notified in their entirety. The figures represent the parts notified.

' Low population density counties notified in their entirety.

In total, 286 municipalities are proposed eligible for national regional aid, representing 1 268 515 inhabitants on 1 January 2005 and corresponding to 27.5% of the Norwegian population.

3.2 Aid ceilings

The Norwegian authorities propose that all areas included in the map should benefit from the maximum aid intensities.

Table 4 below shows the notified aid intensities.

Table 4:

GEOGRAPHICAL AREA	GENERAL AID CEILING (GGE)*	SUPPLEMENT FOR MEDIUM-SIZED ENTERPRISES ⁸ (GGE)	SUPPLEMENT FOR SMALL ENTERPRISES (GGE) ⁹
ALL ELIGIBLE AREAS	15%	10%	20%

*Gross Grant Equivalent

II. APPRECIATION

1. Notification formalities

Chapter 25.B.7 of the State Aid Guidelines¹⁰ states that “*the regions of an EFTA State eligible for regional investment aid under the derogations and the ceilings on the intensity of aid for initial investment approved for each region together form an EFTA State’s regional aid map*”.

The establishment of the map itself does not involve any direct aid in the meaning of Article 61(1) of the EEA Agreement. However, the authorisation of the map establishes, together with the guidelines on regional aid, the framework for granting of aid under the regional aid schemes.

By accepting the appropriate measures, the Norwegian Government accepted to notify, in accordance with Article 1(3) in Part I of Protocol 3 to the Surveillance and Court Agreement, a single regional aid map.¹¹ The notification dated 12 June 2006 (Event No: 377954) constitutes a complete notification. The Norwegian authorities have thereby fulfilled their obligations under the acceptance of the appropriate measures and Article 1(3) in Part I of Protocol 3 to the Surveillance and Court Agreement. Consequently, in line with Chapter 25B.7, paragraph (86), the Authority will assess the notification in

⁸ Annex 1 of Commission Regulation (EC) No 364/2004 of 25 February 2004 amending Regulation (EC) 70/2001, OJ L 63, 28.2.2004, p.22 incorporated in the EEA Agreement through Annex XV point 1f) by decision of the EEA Joint Committee No 131/2004 of 25.09.2004 (OJ L 64, 10.3.2005, p.57 and EEA Supplement No 12, p. 42), or any successor regulation.

⁹ See footnote 7.

¹⁰ Paragraph (81).

¹¹ Paragraph (85).

accordance with the procedure set out in Article 1(3) in Part I of Protocol 3 to the Surveillance and Court Agreement.

The Authority's examination of the notification is based on the criteria set out in Chapter 25.B.3-4 of the State Aid Guidelines.

2. Application of the relevant State Aid Rules

2.1 Methodology and coverage

In accordance with Chapter 25.B.3.3.2 of the State Aid Guidelines, the Norwegian authorities have proposed a method based on two geographical units in order to establish the regions qualifying for exemptions under Article 61(3)(c) of the EEA Agreement.

The counties of Finnmark, Troms, Nordland and Sogn og Fjordane (low population density counties notified in their entirety)

The Norwegian authorities have notified the counties Finnmark, Troms, Nordland and Sogn og Fjordane on the basis of Chapter 25.B.3.3.2, paragraph (22) of the State Aid Guidelines which states:

“The Authority considers that the following regions may be eligible for selection by the EFTA States concerned for the award of regional investment aid pursuant to the derogation under Article 61(3)(c):

a) the low population density regions: such areas are made up essentially of NUTS II geographic regions with a population density of less than 8 inhabitants per square kilometre or NUTS III geographic regions as concerns Norway (...) with a population density of less than 12.5 inhabitants per square kilometre”(emphasis added).

Finnmark has a population density of 1.5 inhabitants per km² (total population of 73 074 inhabitants). Troms has a population density of 5.9 inhabitants per km² (total population of 152 741 inhabitants). Nordland has a population density of 6.2 inhabitants per km² (total population of 236 825). Sogn og Fjordane has a population density of 5.7 inhabitants per km² (total population of 107 032).

The Authority therefore finds that this part of the proposal meets the criteria of Chapter 25.B.3.3.2.

The other notified areas

Paragraph (22)(a) of Chapter 25.B.3.3.2 of the State Aid Guidelines continues:

“However, a certain flexibility is allowed in the selection of these areas, subject to the following limitations:

- *flexibility in the selection of areas must not mean an increase in the population covered;*
- *the NUTS III parts qualifying for flexibility must have a population density of less than 12.5 inhabitants per square kilometre;*

- *they must be contiguous with NUTS III regions which satisfy the low population density test”.*

The State Aid Guidelines provide expressly for the possibility to use some flexibility in the selection of areas eligible for regional aid if the following three conditions are met:

- (i) *Flexibility in the selection of areas must not mean an increase in the population covered*

The Authority finds that this condition is met as the areas excluded from the map in low population density regions, which at the outset qualify as such, have a population of 445 006 inhabitants (see table 1 above). The areas included into the map by application of the flexibility rules have a population of 374 739 inhabitants as indicated in the text under table 2 above.

- (ii) *The NUTS III parts qualifying for flexibility must have a population density of less than 12.5 inhabitants per square kilometre*

The NUTS level III parts qualifying for flexibility with their respective population density are the following¹²: Østfold (6.0 inhabitants/km²), Buskerud (3.1 inhabitants/km²), Vest-Agder (6.0 inhabitants/km²), Rogaland (6.2 inhabitants/km²), Hordaland (5.9 inhabitants/km²), Møre og Romsdal (9.9 inhabitants/km²) and Sør-Trøndelag (4.1 inhabitants/km²).

The Authority finds that the condition that the NUTS III parts qualifying for flexibility must have a population density of less than 12.5 inhabitants per square kilometre is met.

- (iii) *The NUTS III parts must be contiguous with NUTS III regions which satisfy the low population density test*

The NUTS III parts qualifying for flexibility (Østfold, Buskerud, Vest-Agder, Rogaland, Hordaland, Møre og Romsdal, Sør-Trøndelag) are contiguous with the NUTS III regions satisfying the low population density test (Hedmark, Oppland, Telemark, Aust-Agder, Sogn og Fjordane, Nord-Trøndelag, Nordland, Troms and Finnmark) as illustrated by the geographical map of areas proposed for regional aid attached as Annex 1 to this decision¹³.

Hence, the Authority finds that this condition is met.

Finally, the total population coverage of 27.5% proposed as eligible by the Norwegian authorities does not exceed the national population ceiling set in Chapter 25.B.3.3.1 at 29.08%¹⁴. Annex 2 to this decision shows all the municipalities proposed as eligible for regional aid by the Norwegian authorities.

¹² See Table 3 above.

¹³ The municipalities of Aremark, Rømskog and Marker (situated in the NUTS level III region of Østfold) even though not strictly contiguous with the rest of the map of assisted areas have been included as the distance between these municipalities and the NUTS level III region Hedmark is of less than 10 kilometres and as the population density in these municipalities is very low (average of 6 inhabitants /km²). The overall population in these municipalities is 5331.

¹⁴ Paragraph (21).

2.2 Aid ceilings

The Norwegian authorities have proposed general maximal aid ceilings for all the areas covered by the regional aid map to be 15% GGE for large enterprises with a supplement of 10% for medium-sized enterprises and 20% for small enterprises.

Such approach is in line with the terms of Chapter 25.B.4.1.2 of the State Aid Guidelines¹⁵ which provides: “*The low population density regions (corresponding to NUTS III level or smaller) and NUTS-III regions or parts thereof which share a land border with a country which is not a Member State of the European Economic Area or EFTA, are always eligible for an aid intensity of 15% GGE*” (emphasis added).

The State Aid Guidelines¹⁶ further provide that “*in the case of aid awarded to small and medium-sized enterprises, the ceilings in Section 25.B.4.1.2 (see paragraph (37) above), may be increased by 20% GGE for aid granted to small enterprises and by 10% GGE for aid granted to medium-sized enterprises*”.

The Authority therefore concludes that the maximum aid intensities for regional investment aid, as proposed by the Norwegian authorities, are in accordance with the State Aid Guidelines.

3. Scope of the decision and cumulation of aid

The map of assisted areas shall in principle apply from 1 January 2007 to 31 December 2013. It may, however, as provided by Chapter 25.B.7 of the State Aid Guidelines¹⁷, be subject to mid term review in 2010.

The decision does not restrict the powers of the Authority to review the map in accordance with Article 1(1) in Part I of Protocol 3 to the Surveillance and Court Agreement if necessary before the end of the period referred to above.

The Norwegian authorities are reminded that when applying regional aid schemes to shipbuilding, the aid ceiling of 12.5% for the “Article 61(3)(c)” regions may not be exceeded, according to Chapter 24.B.3.3.6 of the State Aid Guidelines¹⁸ read in conjunction with Chapter 24.B of the State Aid Guidelines.

The proposed aid ceilings are cumulative, *i.e* they refer to the upper limit for regional investment aid from all public sources awarded to a particular investment project.

Furthermore, regional investment aid shall not be cumulated with *de minimis* support in respect of the same eligible expenses in order to circumvent the maximum aid intensities laid down in the State Aid Guidelines.

¹⁵ Paragraph (37).

¹⁶ Paragraph (38).

¹⁷ Paragraph (89).

¹⁸ Paragraph (26(c)).

Any regional aid scheme which is not group exempted and which comes into force after 31 December 2006 shall be notified to the Authority in accordance with Article 1(3) in Part I of Protocol 3 to the Surveillance and Court Agreement.

Furthermore, the Norwegian authorities are reminded that, in accordance with Chapter 25.B.8 of the State Aid Guidelines, any existing regional aid scheme including investment aid to be granted after 31 December 2006 shall, if not group exempted, be amended as need be and shall be notified to the Authority in accordance with Article 1(3) in Part I of Protocol 3 to the Surveillance and Court Agreement.

4. Conclusions

The notified map of assisted areas reflects the requirements set out in the State Aid Guidelines and the Authority can approve the map of regions eligible for aid under Article 61(3)(c) of the EEA Agreement.

HAS ADOPTED THIS DECISION:

Article 1

The Authority has decided to approve the proposal for a map of assisted areas and maximum aid intensities in Norway as notified to the Authority by letter dated 12 June 2006. Annex 1 to this decision, which shows the regional aid map of Norway for 2007 to 2013, forms an integral part of Chapter 25.B of the State Aid Guidelines. Annex 2 to this decision lists all municipalities eligible for regional aid.

Article 2

Without prejudice to Article 1(1) in Part I of Protocol 3 to the Surveillance and Court Agreement, the map of areas eligible for regional investment aid should be applicable from 1 January 2007 until 31 December 2013.

Article 3

This decision is addressed to the Kingdom of Norway.

Article 4

Only the English version is authentic.

Done at Brussels, 19 July 2006

For the EFTA Surveillance Authority

Bjørn T. Grydeland
President

Kristján Andri Stefánsson
College Member

