Case No: 80745
Document No: 857745
Decision No: 103/COL/2017

EFTA SURVEILLANCE AUTHORITY DECISION

of 20 June 2017

not to raise objections to a budget increase of an aid scheme for short sea shipping

(Norway)

The EFTA Surveillance Authority ("the Authority"),

Having regard to:

the Agreement on the European Economic Area ("the EEA Agreement"), in particular to Articles 61 and 62,

Protocol 26 to the EEA Agreement,

the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice ("the Surveillance and Court Agreement"), in particular to Article 24,

Protocol 3 to the Surveillance and Court Agreement ("Protocol 3"), in particular to Article 1(3) of Part I and Articles 4(3) of Part II,

the Authority's Decision No 195/04/COL as amended,[1]

Whereas:

I. FACTS

1 Procedure

(1) By letter dated 4 May 2017, received by the Authority on 9 May 2017, the Norwegian authorities notified a budget increase for an approved aid scheme for short sea shipping,[2] pursuant to Article 1(3) of Part I of Protocol 3.[3]

[1] Amended by the Authority's Decision No 789/08/COL. A consolidated version is available on the Authority's website: http://www.eftasurv.int/media/decisions/195-04-COL.pdf.
[2] The aid scheme for short sea shipping was previously approved by the Authority by Decision No 208/16/COL, available at: http://www.eftasurv.int/media/esa-docs/physical/208-16-COL.pdf.
[3] Document No 855308, 855310, and 855312.

(2) The notification was submitted in the form of a simplified notification pursuant to Article 4(2) of the Authority's Decision No 195/04/COL on the implementing provisions referred to under Article 27 in Part II of Protocol 3.

(3) By letter dated 16 May 2017,[4] the Authority requested information from the Norwegian authorities. By letter dated 24 May 2017,[5] the Norwegian authorities replied to the information request.

2 Description of the notified measure

2.1 The aid scheme for short sea shipping

(4) The Authority approved the aid scheme for short sea shipping by Decision No 208/16/COL[6] ("the scheme"). The objective of the scheme is to encourage a modal shift of freight from road to water. Under the scheme, aid is granted to new, or in exceptional circumstances, existing coastal or short sea services, provided that they avoid lorry journeys on Norwegian roads and generate environmental and wider social benefits within Norway.

2.2 The notified measure

(5) The notified measure concerns an increased budget of the scheme. The budget of the approved scheme is NOK 60 million annually. The notified increased budget is NOK 82 million for 2017 and NOK 100 million for 2018 to 2021.

(6) The notified scheme contains no other alterations to the approved scheme for short sea shipping. Therefore, reference is made to Decision No 208/16/COL for a detailed description of the scheme.

3 National legal basis

(7) The Norwegian Parliament decides on the scope of the aid scheme in its annual decisions on the state budget.

4 Comments by the Norwegian authorities

(8) The Norwegian authorities explain that the approved aid scheme on short sea shipping was notified to the Authority prior to the Norwegian Parliament's decision on the state budget for 2017. In a decision of the Norwegian Parliament, dated 8 December 2016, the budget of the scheme was increased.

(9) The Norwegian authorities state that each project under the scheme will be subject to an assessment of any negative effects on competition, such as diversion of business from neighbouring ports or from alternative modes of transport.

(10) The budget increase may lead to the possibility to support more projects. However, the assessment carried out for each project will not be changed from what was described in Decision No 208/16/COL.

(11) The Norwegian authorities argue that the environmental and social benefits under the scheme will increase with the new budget as the calculation of the aid amount for each project is based on the calculated value of the environmental and social benefits.

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[4] Document No 855929.
[5] Document No 857653 and 857655.
[6] Available at: http://www.eftasurv.int/media/esa-docs/physical/208-16-COL.pdf.

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II. ASSESSMENT

1 The presence of state aid

(12) Article 61(1) of the EEA Agreement reads as follows:

"*Save as otherwise provided in this Agreement, any aid granted by EC Member States, EFTA States or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Contracting Parties, be incompatible with the functioning of this Agreement.*"

(13) This implies that a measure constitutes state aid within the meaning of Article 61(1) of the EEA Agreement if the following conditions are cumulatively fulfilled: the measure (i) is granted by the State or through state resources; (ii) confers a selective economic advantage on the beneficiary; (iii) is liable to affect trade between Contracting Parties and to distort competition.

(14) The Authority has already concluded that the scheme for short sea shipping constitutes state aid.[7] There is nothing in the current notification that would alter that conclusion. The grants are allocated to certain eligible undertakings in the maritime sector, to the exclusion of competitors active in other transport sectors. The aid measure therefore confers on the beneficiaries selective economic advantages. The beneficiaries under the scheme are active in the market for short sea shipping, which is liberalised and open to EEA-wide competition. The beneficiaries of the aid are placed in a better position than their competitors offering freight transport services by other modes. Hence, the measure is liable to distort competition and trade between the Contracting Parties. The notified measure therefore constitutes state aid within the meaning of Article 61(1) of the EEA Agreement.

2 Compatibility of the aid

(15) The Authority concluded by Decision No 208/16/COL that the scheme for short sea shipping was compatible with the functioning of the EEA Agreement pursuant to its Article 61(3)(c) and the state aid guidelines on aid to maritime transport.[8] The notified increased budget of the scheme does not alter those conclusions.

(16) Each project under the scheme will continue to be subject to an assessment of any negative effects on competition, such as diversion of business from neighbouring ports or from alternative modes of transport (other than by road). The Norwegian authorities have confirmed that the increased budget may lead to the possibility to support more projects but that the assessment for each project will not be changed. The Authority is satisfied that the potential impact that the aid may have on competition is outweighed by the wider benefits that the scheme will provide in transferring freight traffic flows, thus encouraging a modal shift towards a more sustainable transport system. The services under the scheme are carried out without diverting maritime transport in a way which is contrary to the common interest.

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[7] See section 1 of Part II of Decision No 208/16/COL.

[8] OJ C 103, 28.4.2005, p. 24 and EEA Supplement No 21.

3 Conclusion

(17) On the basis of the foregoing assessment, the Authority considers that the increased budget of the short sea shipping scheme constitutes state aid with the meaning of Article 61(1) of the EEA Agreement. This aid is compatible with the functioning of the EEA Agreement.

Has adopted this decision:

Article 1

Not to raise objections to the increased budget of the short sea shipping scheme on the grounds that it is compatible with the functioning of the EEA Agreement, pursuant to its Article 61(3)(c).

Article 2

The implementation of the measure is authorised accordingly.

Article 3

This Decision is addressed to the Kingdom of Norway.

Article 4

Only the English language version of this decision is authentic.

Done in Brussels, on 20 June 2017

For the EFTA Surveillance Authority, acting under Delegation Decision No 068/17/COL.

Sven Erik Svedman President	Carsten Zatschler Director

This document has been electronically signed by Sven Erik Svedman, Carsten Zatschler.