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# *EFTA SURVEILLANCE AUTHORITY*

Doc. No. 01-2514-I  
Dec. No. 108/01/COL  
Ref. No. SAM 030.00011

## EFTA SURVEILLANCE AUTHORITY DECISION

OF 11 APRIL 2001

ON INDIVIDUAL RESEARCH AND DEVELOPMENT AID TO UMOE STERKODER AS  
(AID NO 00-011)

(NORWAY)

THE EFTA SURVEILLANCE AUTHORITY,

HAVING REGARD TO the Agreement on the European Economic Area<sup>1</sup>, in particular to Articles 61 to 63 of the Agreement,

HAVING REGARD TO the Act referred to in point 1b of Annex XV to the EEA Agreement on aid to shipbuilding (Council Regulation (EC) No. 1540/98)<sup>2</sup>,

HAVING REGARD TO the Agreement between the EFTA States on the establishment of a Surveillance Authority and a Court of Justice<sup>3</sup>, in particular Article 24 and Article 1 of Protocol 3 thereof,

HAVING REGARD TO the EFTA Surveillance Authority's Procedural and Substantive rules in the field of State aid<sup>4</sup>, in particular to chapter 14 thereof,

WHEREAS:

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<sup>1</sup> Hereinafter referred to as the EEA Agreement.

<sup>2</sup> Hereinafter referred to as the Shipbuilding Regulation.

<sup>3</sup> Hereinafter referred to as the Surveillance and Court Agreement.

<sup>4</sup> 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, last amended by the Authority's Decision No 78/00/COL of 12 April 2000, published in OJ L 274, 26.10.2000, hereinafter referred to as the "Authority's State Aid Guidelines".

## I. FACTS

### 1. The notification

By letter of 28 November 2000 from the Mission of Norway to the European Union, received and registered on 29 November 2000 (Doc. No: 00-8696 A), the Norwegian authorities notified, pursuant to Article 1(3) of Protocol 3 to the Surveillance and Court Agreement and Article 10 (2) (b) of the Shipbuilding Regulation, individual research and development (R&D) aid to the shipyard Umoe Sterkoder AS (Umoe).

By letter dated 22 December 2000 (Doc. No: 00-9395 D), the Authority acknowledged receipt of the notification and informed the Norwegian authorities that the Authority, if necessary, would request additional information before the end of January 2001.

By letter of 26 January 2001 (Doc. No. 01-707 D), the Authority requested further information.

By letter dated 26 February 2001 from the Norwegian State's Industrial and Regional Development Fund (SND), received and registered on 2 March 2001 (Doc. No: 01-1699 A), the Norwegian authorities submitted additional information.

By letter of 23 March 2001 (Doc. No: 01-2216 D), the Authority acknowledged receipt of the notification.

### 2. The contents of the proposed aid

- Introduction

The Norwegian authorities have notified the Authority of their intention to grant NOK 2.65 million (app. €323.000) as R&D aid to the shipyard Umoe<sup>5</sup>. The aid will be granted from the Industrial and Regional Development Fund (SND). The aid project “*aims at developing the next generation fishing vessels by applying new technology in developing demonstrator-concepts tailored to future demands on the execution of sustainable fisheries*”. The total budget for the project is NOK 8.85 million (app. €1.08 million). The aid intensity is 30%. Umoe is located in the municipality of Kristiansund in the county Møre og Romsdal (Article 61(3)(c) EEA region).

- Aid beneficiary

Umoe is a shipyard with 320 employees. The yard is 100% owned by Ulltveit Moe Gruppen AS. The yard's turnover in 1999 was NOK 424.1 million (app. €51.7 million). A pre-tax loss of NOK 15.2 million was registered in the same year. The balance sheet total was NOK 418 million.

The aid project is a joint venture between Umoe, Sjøvik AS (a company engaged in fishing, management of fishing vessels, production and sale of fish), SINTEF Fisk og Havbruk AS (a research institution) and a company that produces equipment for

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<sup>5</sup> NACE 35.111 – Building and repair work on ships and hulls that exceed 100 GRT.

fishing vessels (company still undecided). The results of the project will be the property of Umoe, but the project will also bring about external publication of parts of the project results.

- The aid project

Umoe has, in co-operation with SINTEF Fisk og Havbruk AS (SINTEF) and Sjøvik AS, carried out a pre-study project; “Innovative fishing vessel solutions”, to uncover potentially new and more innovative solutions in planning future vessel concepts. The project was not founded by SND, and its objective was to elucidate and describe “state of the art”, as well as future demand on fishing vessels and related equipment. The pre-study describes three new concept sketches that will be carried over on to the main aid project.

The aid project (Innofish) aims at developing a next generation of fishing vessels and is assessed as a pre-competitive development activity. It consists of two main activities that require funding from SND: (1) Technology areas for sustainable fishing, and, (2) Development of innovative vessel concepts. The first part will carry out analyses of central technology areas identified in the preliminary project. The second part will develop a new sea-going trawler, a module based catching machine and a concept regarding logistics for the future.

The total development budget amounts to NOK 8.85 million. The distribution of the costs is as set out in table 1 below.

Table 1: Budget dispersed on activities (NOK 1000)

Cost type	Technology areas for sustainable fishing	Development of innovative vessel concepts	Amount
Personnel costs	2100	3150	5250
Consultancy and related services	1460	1240	2700
Project management and co-ordination			900
Total			8850

The projects financing plan is as set out in table 2 below.

Table 2: Financing plan (NOK 1000)

Means of financing	Amount
Man hours Umoe <sup>1</sup>	3200
Private loans or equity	1100
Sjøvik AS	850
Subcontractors	1050
Grant from SND	2650
Total	8850

<sup>1</sup> Hourly rate for internal work: NOK 450

The project will engage 7 persons from the involved companies and a number of people from SINTEF in connection with services bought there. No R&D expenditure has been made prior to the application for assistance.

## II. APPRECIATION

### 1. The presence of State aid and notification formalities

The notified aid is being funded by State resources and will favour certain undertakings in the meaning of Article 61(1) of the EEA Agreement. The benefiting enterprise is actually or potentially in competition with similar undertakings in Norway and other EEA states. As the proposed aid distorts or threatens to distort competition and to affect trade within the EEA, the aid therefore constitutes State aid in the meaning of Article 61(1) of the EEA Agreement.

The Norwegian authorities have, by letter of 28 November 2000 from the Mission of Norway to the European Union, received and registered on 29 November 2000 (Doc. No: 00-8696 A), and by letter dated 26 February 2001 from the Industrial and Regional Development Fund (SND), received and registered on 2 March 2001 (Doc. No: 01-1699 A), fulfilled their obligation under Article 1(3) of Protocol 3 to the Surveillance and Court Agreement to notify any plans to grant or alter aid. The Norwegian authorities have also complied with the specific notification requirements for aid to shipyards set out in Article 10 (2) (b) of the Shipbuilding Regulation.

The planned financial participation by SND will be arranged under the “Regional Development Grant” Scheme (“Distriktutviklingstilskudd”). The Authority approved the scheme on 5 July 2000 (Dec. No.131/00/COL) after the Norwegian authorities had decided to amend it for the purpose of applying *i.a.*, the rules on aid for shipbuilding. The decision contained the following provision: “*Any aid awards from the “Regional Development Grant Scheme”, (“Distriktutviklingstilskudd”) to the shipbuilding sector shall be notified to the Authority in advance by the Norwegian authorities and authorised by the Authority before they are put into effect.*” The Norwegian authorities have also complied with this provision.

### 2. Application of the relevant State aid rules

The aid beneficiary is a company engaged in building and repair works on ships and hulls that exceed 100 GRT, an activity that is covered by the Shipbuilding Regulation (cf. Article 1 thereof). The aid must also be assessed under the rules contained in the Authority’s State Aid Guidelines on Aid to Research and Development.

As the aid has the character of Research and Development, it must be assessed under Article 8 of the Shipbuilding Regulation. Article 8 of the Regulation, as incorporated in the EEA Agreement, stipulates:

*“Aid granted to defray expenditure by shipbuilding, ship repair or ship conversion undertakings on research and development projects may be considered compatible with the functioning of the EEA Agreement if it is in compliance with the rules laid down in the Community framework for State aid for research and development and*

*the EFTA Surveillance Authority's Procedural and Substantive rules in the field of State aid, chapter 14 on aid for research and development, or any successor arrangements*".

In accordance with the requirements set out in Chapter 14 of the Authority's State Aid Guidelines on aid for research and development, the Authority needs to assess and verify the stage of the research (fundamental research, industrial research or pre-competitive development activity), the eligible costs and the aid intensity. In addition, it must assure that the aid has an incentive effect and does not constitute operating aid.

- Stage of the research

Point 14.2.1. (2) of the Authority's State Aid Guidelines defines 'pre-competitive development activity' as "*...the shaping of the results of industrial research into a plan, arrangement or design for new, altered or improved products, processes or services, whether they are intended to be sold or used, including the creation of an initial prototype which could not be used commercially. This may include the conceptual formulation and design of other products, processes or services and initial demonstration projects or pilot projects, provided that such projects cannot be converted or used for industrial applications or commercial exploitation. It does not include the routine or periodic changes made to products, production lines, manufacturing processes, existing services and other operations in progress, even if such changes may represent improvements*".

According to the information submitted by the Norwegian authorities, the project at issue can be qualified as pre-competitive development activity. The two main activities that require funding from SND ((1) Technology areas for sustainable fishing and (2) Development of innovative vessel concepts) will shape the results of industrial research and use this to formulate new vessel concepts. The Authority considers that this qualifies as pre-competitive development activity within the meaning of point 14.2.1. (2) of Chapter 14 of the Authority's State Aid Guidelines.

- Eligible costs

Point 14.6. (1) of the Authority's State Aid Guidelines states that:

*"The costs set out below will be regarded as eligible for the purposes of calculating the intensity of R&D aid (where generated by other activities as well - in particular other R&D activities - they must be broken down by type of activity):*

- *personnel costs (researchers, technicians and other supporting staff employed solely on the research activity);*
- *cost of instruments, equipment, and land and premises used solely and on a continual basis (except where transferred commercially) for the research activity;*
- *cost of consultancy and equivalent services used exclusively for the research activity, including the research, technical knowledge and patents, etc. bought from outside sources;*
- *additional overheads incurred directly as a result of the research activity;*
- *other operating expenses (e.g. costs of materials, supplies and similar products) incurred directly as a result of the research activity."*

With reference to table 1 in point I above, containing information on the project costs, the Authority considers that all the project costs are eligible for the purposes of calculating the intensity of R&D aid, and that the aid is thus limited to support eligible expenditure in accordance with point 14.6. (1) of the Authority's State Aid Guidelines. The eligible R&D costs are therefore NOK 8.85 million.

- Aid intensity

In point 14.5.1 (7) of the Authority's State Aid Guidelines, concerning the aid intensity for pre-competitive development activity, it is stated that: *“The permissible gross aid intensity for such activities is fixed at 25% of the eligible costs.”* Point 14.5.3. (1) of the Guidelines states that this limit may be exceeded: *“Where the research project is carried out in an Article 61(3)(c) region: an extra 5 percentage points.”*

SND proposes to offer a grant of NOK 2.65 million, which corresponds to an aid intensity of 30%. Since Umoe is located in an Article 61(3)(c) region (target zone C), the applicable aid intensity is 30%. As the aid intensity for the aid project in question is 30%, the conditions regarding the aid intensity as specified in the Authority's State Aid Guidelines are also fulfilled.

- Incentive effect

Point 14.7 of the Authority's State Aid Guidelines states, *i.a.*:

*“(1) State aid for R&D should serve as an incentive for firms to undertake R&D activities in addition to their normal day-to-day operations. It may also encourage firms not carrying out research and development to undertake such activities. Where this incentive effect is not evident, the EFTA Surveillance Authority may consider such aid less favourably than it usually does.*

*(2) In order to verify that the planned aid will induce firms to pursue research which they would not otherwise have pursued, the EFTA Surveillance Authority must take particular account of quantifiable factors (such as changes in R&D spending, in the number of people assigned to R&D activities and in R&D spending as a proportion of total turnover), market failures, additional costs connected with cross-border cooperation and other relevant factors indicated by the EFTA State that made the notification. Proposed aid may also be permitted if it contributes towards expanding the scope of research or speeding it up.*

*(3) Accordingly, the EFTA Surveillance Authority calls on the EFTA States, both when notifying R&D aid and when submitting annual reports on the implementation of approved aid schemes, to demonstrate that the aid is necessary as an incentive, and is on no account operating aid.”*

The Guidelines also makes it clear (point 14.7 (5)) that the Authority will attribute particular importance to the incentive requirement of R&D aid in the case of individual, close-to-the-market research projects to be undertaken by large firms and in all cases in which a significant proportion of the R&D expenditure has already been made prior to the aid application.

The Authority notes that, according to the Norwegian authorities, all the costs associated with the two projects are R&D costs the company normally would not have undertaken had it not been for the two projects. Umoe is a shipyard that until today has produced vessels ordered by the individual ship owner after the owner's specifications. The shipyard has not developed its own concepts until now. The two projects are considered as extraordinary, groundbreaking initiatives on the part of the shipyard. The projects, according to the Norwegian authorities, involve risk factors and would never have been initiated had not SND been able to offer the shipyard financial assistance. The assistance is therefore considered as a necessary incentive to the initiation of the projects and does not replace normal operating costs.

The aid beneficiary is to be regarded as a large firm and the projects for which support has been sought must be regarded as close to the market. The Authority notes that the projects will engage 7 persons from the involved companies and a number of people from SINTEF in connection with services bought there. The development costs constitute app. 2% of Umoe's total turnover. Finally, the Authority takes note of the assurance given by the Norwegian authorities that no R&D expenditure has been made prior to the application for assistance.

On the basis of the information submitted by the Norwegian authorities, the Authority concludes that the grant has an incentive effect as required under Chapter 14 of the Authority's State Aid Guidelines.

- Conclusion

For the reasons stated above, it is concluded that the notified aid to Umoe Sterkoder AS may be considered compatible with the functioning of the EEA Agreement.

**HAS ADOPTED THIS DECISION:**

1. The EFTA Surveillance Authority has decided not to raise objections to the proposed R&D aid to the shipyard Umoe Sterkoder AS as notified by the Norwegian authorities by letter of 28 November 2000 from the Mission of Norway to the European Union, received and registered on 29 November 2000 (Doc. No: 00-8696 A), and letter of 26 February 2001 from the Norwegian State's Industrial and Regional Development Fund (SND), received and registered on 2 March 2001 (Doc. No: 01-1699 A).
2. The Norwegian Government is reminded of its obligation to submit to the EFTA Surveillance Authority the relevant reports referred to in Article 11 of the Shipbuilding Regulation.

Done at Brussels, 11 April 2001.

For the EFTA Surveillance Authority

Knut Almestad  
President

Bernd Hammermann  
College Member