



EFTA SURVEILLANCE AUTHORITY

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EFTA SURVEILLANCE AUTHORITY DECISION

of 11 April 2001

ON INDIVIDUAL RESEARCH AND DEVELOPMENT AID TO THE SHIPYARD
ULSTEIN VERFT AS

(NORWAY)

THE EFTA SURVEILLANCE AUTHORITY,

HAVING REGARD TO the Agreement on the European Economic Area¹, 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)²,

HAVING REGARD TO the Agreement between the EFTA States on the establishment of a Surveillance Authority and a Court of Justice³, in particular Article 24 and Article 1 of Protocol 3 thereof,

HAVING REGARD TO the Procedural and Substantive Rules in the Field of State Aid⁴, and in particular Chapter 14 thereof,

WHEREAS:

¹ Hereinafter referred to as the EEA Agreement.

² Hereinafter referred to as the Shipbuilding Regulation.

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, 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 dated 8 December 2000 from the Mission of Norway to the European Union, received and registered by the Authority on 11 December 2000 (Doc. No: 00-9106 A), the Norwegian authorities notified the Authority, pursuant to Article 10 (2) (b) of the Shipbuilding Regulation, of plans by the Norwegian authorities to award aid in support of two research and development (R&D) projects to be carried out by the shipyard *Ulstein Verft AS*.

By letter dated 26 January 2001 (Doc. No: 01-713 D), the EFTA Surveillance Authority requested additional information on the aid proposal, to which the Norwegian authorities responded by letter of 26 February 2001 from the Industrial and Regional Development Fund (SND), received and registered by the Authority on 2 March 2001 (Doc. No: 01-1696 A). By letter of 23 March 2001 (Doc. No. 01-2258-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 1 176 000 (approx. € 143 000) for two R&D projects to be carried out by the shipyard *Ulstein Verft AS*. The aid will be granted from the Norwegian State's Industrial and Regional development Fund (SND).

Aid Beneficiary: *Ulstein Verft AS*

The aid beneficiary is engaged in building and repair work on ships and hulls that exceed 100 GRT (NACE 35.111).

Ulstein Verft AS engages some 400 persons in ship design and shipbuilding, its turnover in the last financial year 1999 was NOK 1.314 million (approx. € 160 million) and its balance sheet total NOK 974 million (approx. € 120 million) at the end of that year. *Ulstein Verft AS* was founded in 1917. In 1998, the Ulstein group, organised under the holding company *Ulstein Holding ASA*, was taken over by Vickers plc. However, the Ulstein Group's shipbuilding operations were not included in the takeover transaction and continued as a separate company under the auspices of *Ulstein Mekaniske Verksted Holding ASA*.

The recipient shipyard is located in the municipality of Ulstein, in the county of Møre and Romsal. This municipality does not qualify for regional aid under Article 61 (3)(c) of the EEA Agreement.

Project Description

The Norwegian Government notified R&D aid for two projects, namely the project called “Module Based Design” and the project called “Internal Commodity Flow and Early Outfitting”. The first project aims at developing modularised designs suitable for re-use. Experience from a smaller trial project has shown that it is possible for a shipyard to save considerable amounts on the designing, construction and installing of items in ships, if such items are modularised with the intention of re-using them. The second project focuses on the development of an early outfitting philosophy, advanced storage functions and good organising and planning routines. Although not entirely dependent on the first project, larger gains may be anticipated in the interaction between the projects. Where a shipyard introduces module based design, higher demands are put on accurate deliveries, and early outfitting is regarded as a condition for module based design.

In the past, the aid beneficiary has participated in research activities with a view to developing theories in connection with both early outfitting as well as modularised design, and in particular the combination of both aspects. These research activities were co-funded by *Ulstein Verft AS* and resulted in a book entitled “*Tidligutrusting*” (“Early Outfitting”), published by Marintek (the Norwegian Marine Technology Research Institute) in 1996.

According to the Norwegian authorities the notified projects constitute a completely new approach to shipbuilding. To their knowledge, the *Ulstein Verft AS* is one of the few, if not the only Norwegian shipyard that can facilitate an implementation of the new methods envisaged. These projects exceed to a significant degree, according to the Norwegian authorities, the scope of ordinary industrial production process improvement.

The shipyard’s R&D related expenses in the past are stated as being approx. NOK 3 million (€ 370 000) p.a. In 1999, the shipyard incurred NOK 3 million (€ 370 000) in R&D carried out by the company’s design department and NOK 1 million (€ 120 000) for development activities of the yard. The 1999 R&D spending corresponds to approx. 0.3 % in relation to the company’s turnover in that year. The current projects will imply additional R&D expenses amounting to approx. NOK 6 million (€ 730 000), implying an increase in R&D spending of around 70% compared to 1999 figures.

The total estimated costs amount to NOK 2.48 million (approx. € 302 000) and NOK 3.40 million (approx. € 414 000) for the projects “Module Based Design” and “Internal Commodity Flow and Early Outfitting” respectively. According to the Norwegian authorities, the budget as presented by the aid beneficiary constitutes a correct overall cost estimate basis for the grant. The costs involved in both projects are personnel costs as well as costs resulting from external expertise sought in connection with the projects.

According to the conditions attached to the award of the grant, *Ulstein Verft AS* shall be obliged to repay the aid in full if the projects are profitable. The “Module Based Design” project is considered to be profitable if by 2003 construction hours are

reduced by 17%, as compared to key figures for 2000. The “Internal Commodity Flow and Early Outfitting” project is considered to be profitable if by 2003 outfitting hours are reduced by 20%, as compared to key figures for 2000. Depending on the use of external experts, the amount to be repaid may be reduced. This possibility is designed to encourage the aid beneficiary to make increased use of external expertise.

The projects are mainly in-house projects, including external expertise from NTNU (“*Norges Teknisk Naturvitenskapelige Universitet*”, the Norwegian University of Science and Technology). The results of the project will be the property of *Ulstein Verft AS*.

Aid Measure

The planned grants amount to NOK 496 000 and NOK 680 000 (approx. € 60 000 and € 83 000) for the project called “Module Based Design” and the project called “Internal Commodity Flow and Early Outfitting” respectively. The grants cover 20% of the respective project costs. Both grants will be offered by SND under the “Regional Development Grant” Scheme. The scheme, which was originally approved by the Authority in 1998 (State aid No. SAM 030.98.008, Decision of 16 December 1998, Dec. No. 375/98/COL), was amended in the course of 2000, with the objective to extend the scope of application and to provide support for regional investment and R&D activities in accordance with the Shipbuilding Regulation. These amendments were approved by the Authority by decision of 5 July 2000 (State aid No. SAM 030.00.006; Dec. No. 131/00/COL). In this decision, the Authority stated that objectives, eligible costs and aid intensities of the scheme as applicable to R&D aid are in accordance with Chapter 14 of the Authority's State Aid Guidelines. Furthermore, the amendments were considered to reflect the requirements set out in the Shipbuilding Regulation.

II. APPRECIATION

1. Presence of State aid and notification formalities

The notified grants are 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 proposed grants by SND to support the financing of the projects “Module Based Design” and “Internal Commodity Flow and Early Outfitting” constitute State aid in the meaning of Article 61(1) of the EEA Agreement.

By submitting a notification for the planned aid, the Norwegian authorities have complied with the specific notification requirement for aid to shipyards set out in Article 10 (2) (b) of the Shipbuilding Regulation. Furthermore, the Norwegian authorities have refrained from paying out the grant, pending the outcome of the examination. The Authority can therefore conclude that the Norwegian Government has respected the standstill provision in Article 1 (3) of Protocol 3 to the Surveillance and Court Agreement.

2. *Application of relevant State aid rules*

The aid beneficiary is a company engaged in building and repair work on ships and hulls that exceed 100 GRT, an activity which is covered by the Shipbuilding Regulation (cf. Article 1 thereof). As the aid has the character of research and development aid, it must be assessed under Article 8 of the Shipbuilding Regulation.

Article 8 of the Shipbuilding Regulation, as incorporated into 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 common market 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 research, the aid intensity and the eligible costs. In addition, it must assure that the aid has an incentive effect and does not constitute operating aid.

Stage of research

Point 14.2.1 of Chapter 14 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 projects at issue can be qualified as ‘pre-competitive development activity’ within the meaning of point 14.2.1. (2) of Chapter 14 of the Authority's State Aid Guidelines.

Both projects follow-up on previous industrial research in the field of modularization and early outfitting. The projects will facilitate the utilisation of a method which, so far, has mainly been used in other industries. It can therefore be expected that the results of both projects will contribute to setting new industry standards. In this sense it exceeds what has to be considered as normal and periodic improvements to existing production processes. The Authority was therefore satisfied that the projects constituted ‘pre-competitive development activity’.

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.”*

The Authority considers that all costs included in the budget for both projects 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 Chapter 14 of the Authority's State Aid Guidelines. The eligible R&D costs for both projects are therefore NOK 5 875 000 (approx. € 716 000).

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.”*

The grants offered by SND amount to NOK 1 176 000 (approx. € 143 000). These amounts correspond to an aid intensity of 20% for each project, which is below the permissible aid intensity as specified in point 14.5.1 (7) of Chapter 14 of the Authority's State Aid Guidelines.

Incentive effect

According to point 14.7 of Chapter 14 of the Authority's State Aid Guidelines, *“[s]tate 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 activities to undertake such activities.... In order to verify that the planned aid will induce firms to pursue research 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...”*

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 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. On the basis of the information submitted by the Norwegian Government, the Authority was satisfied that the grants had an incentive effect as required under Chapter 14 of the Authority's State Aid Guidelines.

In this respect, the Authority notes that according to the Norwegian authorities, the aid recipient engaged only recently in R&D activities, by establishing a concept development department of only limited size. The company's overall R&D related expenses are stated as being approx. NOK 4 million in 1999, which corresponds to approx. 0.3 % R&D spending in relation to the company's turnover in that year. The current project will imply additional R&D expenses amounting to approx. NOK 6 million, NOK 4.2 million of which are expected to be incurred in 2001 and the rest in 2002. This implies an increase in R&D spending of around 70% compared to 1999. As to the R&D staffing involved in the project, the Authority notes that the estimate of internal man-hours allocated to the projects is approx. 10 000 for 2001 and 5000 for 2002. For 2001 this equates, according to the Norwegian authorities, to an increase of approx. 100% compared to 2000. Finally, the Authority takes note of the assurance given by the Norwegian authorities that no parts of the expenses included in the R&D budget of both projects have been incurred prior to *Ulstein Verft AS*'s application for aid. On the basis of these factors, the Authority could therefore conclude that the shipyard will undertake R&D activities in addition to its normal day-to-day business and that the aid does not constitute operating aid.

In addition, the Authority takes note of the Norwegian authorities' statement that *Ulstein Verft AS* decided to engage in both projects only after SND had provided support which reduced the investment to a level corresponding to the projects' projected gains and perceived risks. In this context, it should also be mentioned that *Ulstein Verft AS* is obliged to repay the grant should the projects be successful. This means that the totality of the State support definitively remains with the aid recipient only when the projects fails, in which case the impact of the aid on competition is negligible.

Finally, the Authority would like to point out that, in particular the project on modularization is in line with R&D priorities determined at EC level in view of enhancing the competitiveness of the European shipbuilding industry⁵.

For the above reasons the conditions set out in Article 8 of the Shipbuilding Regulation in combination with Chapter 14 of the Authority's State Aid Guidelines on aid for research and development are considered to be fulfilled.

⁵ See the Maritime Industry R&D Master Plan as presented in 1996 by the European Maritime Industry Forum, which addressed the R&D needs in the maritime field and indicated its key technological priority areas, including modularization and standardisation; see also EU 5th R&D Framework, Work Programme 2001-2002 regarding one of the thematic programmes "Competitive and Sustainable growth", Key Action 3 on land transport and marine technology, and in particular the objective of developing "critical technologies".

Conclusions

With reference to the above considerations, it is concluded that the proposed aid to *Ulstein Verft 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 *Ulstein Verft AS*, as notified by letter dated 8 December 2000 from the Mission of Norway to the European Union, received and registered by the Authority on 11 December 2000 (Doc. No: 00-9106 A) and letter of 26 February 2001 from the Norwegian State's Industrial and Regional Development Fund (SND), received and registered by the Authority on 2 March 2001 (Doc. No: 01-1696 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