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# *EFTA SURVEILLANCE AUTHORITY*

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Ref. No. SAM030.00003

## EFTA SURVEILLANCE AUTHORITY DECISION

OF 5 JULY 2000

ON AMENDMENTS TO THE "DEVELOPMENT GRANT SCHEME"  
("UTVIKLINGSTILSKUDD")  
(AID No. 00-003, FORMERLY AID No. 95-003,  
AND AID No. 93-140)

(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, Annex XV and of Protocol 26 thereof,

Having regard to the Agreement between the EFTA States on the establishment of a Surveillance Authority and a Court of Justice<sup>2</sup>, in particular to Article 24 and Article 1 of Protocol 3 thereof,

Having regard to the Authority's Guidelines<sup>3</sup> on the application and interpretation of Articles 61 and 62 of the EEA Agreement,

Recalling the Authority's Decision No 58/95/COL of 24 May 1995 deciding not to raise objections to the "Developments Grant" scheme<sup>4</sup>,

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

<sup>2</sup> Hereinafter referred to as the Surveillance and Court Agreement.

<sup>3</sup> Procedural and Substantive Rules in the Field of State Aid (State Aid Guidelines), adopted and issued by the EFTA Surveillance Authority on 19 January 1994. Published in Official Journal L 231, 03.09.1994, p.1, and EEA Supplement to the OJ No 32, 03.09.1994, p.1. The Guidelines were last amended 12 April 2000, not yet published.

<sup>4</sup> See also Decision no 170/94/COL of 23 November 1994 proposing appropriate measures to Norway for certain aid schemes to comply with the criteria under the EEA Agreement for aid to Small and Medium-sized Enterprises or aid for Research and Development.

WHEREAS:

## I. FACTS

### 1. The notification

By letter of 14 April 2000 from the Mission of Norway to the European Union, received and registered on 17 April 2000 (Doc. No: 00-3083 A), the Norwegian authorities notified, pursuant to Article 1(3) of Protocol 3 to the Surveillance and Court Agreement, amendments to the existing aid scheme: "Development Grant" ("*Utviklingstilskudd*") (hereinafter referred to as DG).

By telefax dated 19 May 2000, received and registered on 19 May 2000 (Doc. No: 00-3867 A), the Norwegian Ministry of Trade and Industry sent a correction to the notification of 14 April 2000.

By letter dated 19 May 2000 (Doc. No: 00-3868 D), the EFTA Surveillance Authority acknowledged the receipt of the letter dated 14 April 2000 and the telefax dated 19 May 2000.

### 2. The contents of the proposed amendments

#### 2.1. Introduction

The Norwegian authorities have decided to amend DG for the purpose of applying the rules on aid for training and shipbuilding. The objectives of the scheme remain unchanged (Primary objective is aid to SMEs, secondary objective is aid to R&D). The amendments do not have any budgetary consequences.

The Norwegian authorities also notified a merger of the DG scheme (Aid No 00-003, formerly Aid No 95-003) with the grant scheme for SMEs in central areas ("*tilskuddsordning for SMB i sentrale strøk*") (Aid No 93-140). Both schemes are financed under the same budget line and have the same legal basis (The Norwegian State budget, chapter 2420, post 50, ("*Statens nærings- og distriktutviklingsfond*").

#### 2.2. Training aid

The objective of the first amendment is to use DG also for training aid in accordance with the criteria in Chapter 18A of the Authority's Guidelines. According to the Norwegian authorities, DGs draft guidelines introduce new rules for training aid, which are direct applications of the criteria in Chapter 18A of the Guidelines.

DG may be used for both general and specific training for Small and Medium-sized Enterprises (SMEs). Operating aid is prohibited. Application of the scheme is limited to projects where there is an apparent incentive effect with regard to enterprises taking on training measures that are not part of their normal costs.

Eligible costs on which the aid is calculated are:

1. trainers' personnel costs;
2. trainers' and trainees' travel expenses;
3. other current expenses (materials, supplies, etc.);
4. depreciation of tools and equipment, to the extent that they are used exclusively for the training scheme in question;
5. cost of guidance and counselling services with regard to the training project;
6. trainees' personnel costs up to the total of the other eligible costs referred to in (1) and (5).

The proposed aid intensity for training aid to SMEs depend upon whether the aid is for general or specific training. For general training aid the proposed intensity is 70% and for specific training 35%.

### **2.3. Shipbuilding aid**

The objective of the second amendment is, according to the Norwegian authorities, to use DG in accordance with the criteria in Council Regulation (EC) No 1540/98 of 29 June 1998 establishing new rules on aid to shipbuilding<sup>5</sup>. The Regulation was implemented into Norwegian legislation by Royal Decree of 19 March 1999<sup>6</sup>.

According to the new draft guidelines for DG, the scheme may be used for aid to Research and development (R&D) to shipbuilding in accordance with Article 8 of Regulation 1540/98. Article 8 states that:

*“Article 8*

#### ***Research and development***

*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.”*

### **2.4. Merger with the SME grant scheme (Aid no 93-140)**

The “SME Grant Scheme” (*“Tilskuddsordning for SMB i sentrale strøk”*) (Aid No 93-140) covers awards of aid in the form of direct grants to SMEs for general investment aid in tangible assets and intangible investment outside areas eligible for regional aid. The legal basis for the scheme is laid down in the Law on SND of 3 July 1992 no. 97 and the Society rules for SND of 4 January 1993. The Norwegian authorities state that the DG scheme (Aid No 00-003, formerly Aid No 95-003) and the grant scheme for SMEs in central areas in the future will be regarded as one scheme. Both schemes are being funded under the same budget line (The State

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<sup>5</sup> OJ L 202, 18.07.1998.

<sup>6</sup> Ref. EEA Agreement, Annex XV, 1b.

Budget, chapter 2420, post 50, Statens nærings- og distriktutviklingsfond). The schemes annual budget for 2000 (NOK 194 million) remains unchanged.

## **2.5. The schemes existing provisions**

DG's existing provisions have been adapted to the rules for aid to small and medium-sized enterprises (SMEs) and research and development (R&D).

Investment aid may be granted for SMEs up to a maximum aid intensity of 7.5% gross for medium-sized enterprises and 15% gross for small enterprises outside the map for assisted areas. Aid to consultative services, training and dissemination of knowledge may be granted for SMEs up to a maximum aid intensity of 50% gross. According to the Norwegian authorities, the DGs draft guidelines are a direct application of the criteria in Chapter 10 of the Authority's State aid Guidelines (Aid to small and medium-sized enterprises (SMEs)).

Regarding aid to R&D, aid may be granted for pre-competitive development activity, technical feasibility studies and industrial research. For large enterprises the maximum aid intensities are 25% gross, 50% gross and 50% gross, respectively, of the eligible costs. SMEs can receive additional 10 percentage points, respectively. According to the Norwegian authorities is this in accordance with Chapter 14 of the Authority's State aid Guidelines (Aid for Research and Development).

## **2.6. Other amendments**

The DG scheme's draft guidelines introduce new rules for conditional repayment. Aid above NOK 1 million may be granted with conditional repayment. Introduction of conditional repayment implies that the net aid intensities will be lower than for direct grants without such clauses.

# **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 enterprises are 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 scheme therefore constitutes State aid in the meaning of Article 61(1) of the EEA Agreement.

The Norwegian authorities have, by notification dated 14 April 2000, received and registered on 17 April 2000 (Doc. No: 00-3083 A), and telefax dated 19 May 2000, received and registered on 19 May 2000 (Doc. No: 00-3867 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.

However, the Authority will also draw the Norwegian authorities' attention to the fact that the special notification rules provided for in Article 10.2.(b) of the Shipbuilding Regulation should have been referred to.

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

### **2.1. Training aid**

The Authority finds that the objectives, eligible costs and aid intensities (see point I 2.2. above) for the use of DG to training aid are in accordance with Chapter 18A of the State aid Guidelines.

### **2.2. Shipbuilding aid**

In the preamble of the Shipbuilding Regulation it is stated i.a. that: "*whereas aid for research and development and aid for environmental protection should also be permitted so that the shipbuilding industry is not deprived of these aid possibilities that are available to all other industrial sectors;*". This is reflected in Article 8 of the Regulation that is cited in point I 2.3 above.

The proposal to extend the scope of DG to R&D within the shipbuilding sector is in compliance with Article 8 of the Shipbuilding Regulation<sup>7</sup> (see also point II 2.4. below).

The shipbuilding sector is subject to specific notification requirements. Any individual application of aid schemes, when specifically provided for by the Authority, shall be notified in advance by the EFTA States and authorised by the Authority before they are put into effect<sup>8</sup>. The Authority finds that, in accordance with established practice, any individual application of DG in the shipbuilding sector must be notified to the Authority and approved before they are put into effect.

### **2.3. Merger with the "SME Grant Scheme" – Aid to SMEs**

The "SME Grant Scheme" ("*Tilskuddsordning for SMB i sentrale strøk*") (Aid No 93-140) has been reported to the Authority as an existing aid scheme by letter from the Norwegian authorities of 4 March 1994 and has not previously been approved by the Authority. On the contrary, the scheme was part of the Authority's decision No. 170/94/COL of 23 November 1994 proposing appropriate measures to Norway for certain aid schemes to comply with the criteria under the EEA Agreement for aid to small and medium-sized enterprises or aid for research and development. The Authority has received formal acceptance<sup>9</sup>, but has not received information on the foreseen changes in the legal provisions for the "SME Grant Scheme".

Given that the "SME Grant Scheme" is being merged with the DG scheme, the Authority has examined the new legal provisions for the DG scheme (see point I 2.5

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<sup>7</sup> Council Regulation (EC) No 1540/98 of 29 June 1998.

<sup>8</sup> Ref. Art 10(c)(ii) of Council Regulation (EC) No 1540/98 of 29 June 1998.

<sup>9</sup> Letter from Norway of 19 December 1994 (Ref. 95-147 A), received on 9 January 1995.

above). The Authority finds that the objectives, eligible costs and aid intensities for the use of DG to small and medium-sized enterprises (SMEs) are in accordance with Chapter 10 of the State aid Guidelines.

#### **2.4. Aid to R&D**

The DG scheme is also adapted to the rules on aid for research and development (R&D) (see point I 2.5 above). The Authority has examined the new legal provisions for the scheme and finds that the objectives, eligible costs and aid intensities for the use of DG to R&D are in accordance with Chapter 14 of the State aid Guidelines.

### **3. Conclusion**

The amendments to DG reflect the requirements set out in the State Aid Guidelines; Chapter 10, Aid to small and medium sized enterprises, Chapter 14, Aid for research and development and Chapter 18A, Training Aid, for aid under Article 61(3)(c) of the EEA Agreement.

The amendments also reflect the requirements set out in Council Regulation (EC) No 1540/98, of 29 June 1998, establishing new rules on aid to shipbuilding, for aid under Article 63 of the EEA Agreement.

Aid awards from DG to the shipbuilding sector are subject to individual notification requirements.

**HAS ADOPTED THIS DECISION:**

1. The EFTA Surveillance Authority has decided not to raise objections to the amendments to the "Development Grant Scheme" ("*Utviklingstilskudd*") and merger with the "SME Grant Scheme" ("*Tilskuddsordning for SME i sentrale strøk*"), as notified by the Norwegian authorities by letter dated 14 April 2000 (Doc. No: 00-2834 A) and telefax of 19 May 2000 (Doc. No: 00-3867 A).
2. Any aid awards from the "Development Grant Scheme" ("*Utviklingstilskudd*"), 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.

Done at Brussels, 5 July 2000

For the EFTA Surveillance Authority

Knut Almestad  
President

Hannes Hafstein  
College Member