



EFTA SURVEILLANCE AUTHORITY

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EFTA SURVEILLANCE AUTHORITY DECISION

OF 5 JULY 2000

ON AMENDMENTS TO THE "REGIONAL DEVELOPMENT GRANT" SCHEME
("DISTRIKTSUTVIKLINGSTILSKUDD")
(AID No. 00-006, FORMERLY AID No. 98-008)

(NORWAY)

THE EFTA SURVEILLANCE AUTHORITY,

Having regard to the Agreement on the European Economic Area¹, 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 Justice², in particular to Article 24 and Article 1 of Protocol 3 thereof,

Having regard to the Authority's Guidelines³ on the application and interpretation of Articles 61 and 62 of the EEA Agreement,

Recalling the Authority's Decision No 375/98/COL of 16 December 1998 deciding not to raise objections to the merger and amendments of two existing schemes into the new "Regional Development Grant" scheme,

¹ Hereinafter referred to as the EEA Agreement.

² Hereinafter referred to as the Surveillance and Court Agreement.

³ 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.

WHEREAS:

I. FACTS

1. The notification

By letter of 27 April 2000 from the Mission of Norway to the European Union, received and registered on 2 May 2000 (Doc. No: 00-3417 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: "Regional Development Grant" ("*Distriktstviklingstilskudd*") (hereinafter referred to as RDG).

By letter dated 19 May 2000 (Doc. No: 00-3868 D), the EFTA Surveillance Authority acknowledged the receipt of the letter dated 27 April 2000.

2. The contents of the proposed amendments

2.1. Introduction

The Norwegian Authorities have decided to amend RDG for the purpose of applying the rules on aid for training and shipbuilding. The existing provisions of the scheme have also been adapted to the rules for small and medium-sized enterprises (SMEs) and research and technology (R&D). The objectives of the scheme remain unchanged (Regional aid and aid to SMEs). The amendments do not have any budgetary consequences.

2.2. Training aid

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

RDG may be used for both general and specific training. 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 intensities for training aid depend upon whether the aid is for general or specific training. For large enterprises in the areas covered by the map of assisted areas the proposed intensities are 50% and 25% for general training aid and specific training, respectively. For SMEs in the areas covered by the map of assisted areas the proposed intensities are 75% and 50% for general training aid and specific training, respectively. Aid for training will be awarded in accordance with the rules on aid to sensitive sectors. This implies i.a. that aid for training will not be available for enterprises in the shipbuilding sector.

2.3. Shipbuilding aid

The objective of the second amendment is, according to the Norwegian authorities, to use RDG in accordance with the criteria in Council Regulation (EC) No 1540/98 of 29 June 1998 establishing new rules on aid to shipbuilding⁴. The Regulation was implemented into Norwegian legislation by Royal Decree of 19 March 1999⁵.

According to the new draft guidelines for RDG, the scheme may be used for aid to regional investment aid and research and development (R&D) to shipbuilding in accordance with Article 7 and 8 of Regulation 1540/98. Article 7 states i.a. that:

“Article 7

Regional investment aid

Aid granted for investment in upgrading or modernising existing yards, not linked to a financial restructuring of the yard(s) concerned, with the objective of improving the productivity of existing installations, may be deemed compatible with the functioning of the EEA Agreement provided that:

- *in regions meeting the criteria for the option contained in Article 61(3)(c) and complying with the map approved by the competent surveillance authority as defined in Article 62 of the EEA Agreement for each EC Member State or EFTA State for the grant of regional aid, the intensity of the aid does not exceed 12.5% or the applicable regional aid ceiling, whichever is the lower,”*

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

⁴ OJ L 202, 18.07.1998.

⁵ Ref. EEA Agreement, Annex XV, 1b.

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. The schemes existing provisions

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

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 RDG's 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 and industrial research. For large enterprises the maximum aid intensities are 30% gross for pre-competitive development activity and 55% gross for industrial research, 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).

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 27 April 2000, received and registered on 2 May 2000 (Doc. No: 00-3417 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 for the use of RDG to training aid are in accordance with Chapter 18A of the State aid Guidelines.

2.2. Shipbuilding aid

The new draft guidelines for RDG used as regional investment aid in the shipbuilding sector are in accordance with Article 7 of the Shipbuilding Regulation cited in point I 2.3 above.

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 Shipbuilding Regulation cited in point I 2.3 above.

The proposal to extend the scope of RDG to R&D within the shipbuilding sector is in compliance with Article 8 of the Shipbuilding Regulation⁶ (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 effect⁷. The Authority finds that, in accordance with established practice, any individual application of RDG in the shipbuilding sector must be notified to the Authority and approved before they are put into effect.

2.3. Aid to SMEs.

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

3. Conclusion

The amendments to RDG 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.

⁶ Council Regulation (EC) No 1540/98 of 29 June 1998.

⁷ Ref. Art 10(c)(ii) of Council Regulation (EC) No 1540/98 of 29 June 1998.

The amendments also reflect the requirements set out in and 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 RDG 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 "Regional Development Grant Scheme" ("*Distriktsutviklingstilskudd*"), as notified by the Norwegian authorities by letter dated 27 April 2000 (Doc. No: 00-3417 A).
2. Any aid awards from the "Regional Development Grant Scheme", ("*Distriktsutviklingstilskudd*") 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