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# *EFTA SURVEILLANCE AUTHORITY*

Doc. No. 98-3460-I  
Dec. No. 137/98/COL  
Ref. No. SAM030.98.004

## EFTA SURVEILLANCE AUTHORITY DECISION

of 20 May 1998

on regional investment aid to the shipyard  
*Mjosundet Båt og Hydraulikk A/S*

(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 Directive No 90/684/EEC as amended by Council Directive No 93/115/EC and Council Directive No 94/73/EC)<sup>2</sup>,

Having regard to the Act referred to in point 1c of Annex XV to the EEA Agreement (Council Regulation (EC) No 3094/95 on aid to shipbuilding, as amended by Council Regulation (EC) No 1904/96<sup>3</sup> and Council Regulation (EC) No 2600/97<sup>4</sup>),

Having regard to the Agreement between the EFTA States on the establishment of a Surveillance Authority and a Court of Justice<sup>5</sup>, in particular Article 1 of Protocol 3 thereof,

WHEREAS:

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

<sup>2</sup> These Council Directives, as adapted for the purpose of the EEA Agreement by decisions of the EEA Joint Committee No 21/95, 16/96, 58/96 and 19/98, will hereinafter be referred to as the Shipbuilding Directive.

<sup>3</sup> Council Regulations (EC) No 3094/95 and 1904/96 were incorporated into the EEA Agreement by Decision of the EEA Joint Committee No 85/97 of 12 November 1997.

<sup>4</sup> This Regulation was included in the EEA Agreement by EEA Joint Committee Decision No 19/98 of 6 March 1998.

<sup>5</sup> Hereinafter referred to as the Surveillance and Court Agreement.

## I. FACTS

### I.1 The notification

By telefax of 5 February 1998 (Doc. No. 98-724-A), confirmed by letter received on 12 February 1998 (Doc. No. 98-887-A), the Mission of Norway to the European Union submitted to the Authority a notification, pursuant to Article 11 of the Shipbuilding Directive, of plans by the Norwegian authorities to award aid in support of certain investments by the shipyard *Mjosundet Båt og Hydraulikk A/S*.

By letter of 4 March 1998 (Doc. No. 98-1294-D), the EFTA Surveillance Authority requested certain additional information on the aid proposal, to which the Norwegian authorities responded by telefax of 1 April 1998 (Doc. No. 98-2147-A) from the Royal Ministry of Trade and Industry.

### I.2 Substance

#### I.2.1 *Mjosundet Båt og Hydraulikk A/S*

*Mjosundet Båt og Hydraulikk A/S* (MBH) is located in the municipality of Aure in the county of *Møre og Romsdal*. MBH builds fishing boats used in the fish farming industry. The company builds approximately 3-4 boats per year, all above 100 GRT. It also produces hydraulic equipment for boats. In terms of turnover, the company's activities are currently divided approximately evenly between the two areas.

MBH has currently 45 employees, its turnover in the year 1996 was NOK 32 million and its balance sheet total NOK 9 million at the end of that year.

#### I.2.2 The aid project

The planned project consists of investments in a new combined production hall, for the production of hydraulic equipment to boats, and an administration building, as well as investments in related machinery and equipment.

The total estimated investment costs amount to NOK 7,4 million. The breakdown of the costs, as well as their planned financing, are as follows:

#### **Investment cost budget:**

|                         |               |
|-------------------------|---------------|
| New workshop            | NOK 4.434.800 |
| Machinery and equipment | NOK 2.087.700 |
| Various costs           | NOK 877.500   |
| Total                   | NOK 7.400.000 |

**Financing:**

|                               |     |           |
|-------------------------------|-----|-----------|
| Bank loan                     | NOK | 2.200.000 |
| SND Regional investment grant | NOK | 1.100.000 |
| SND Risk loan                 | NOK | 2.600.000 |
| Equity                        | NOK | 1.500.000 |
| Total                         | NOK | 7.400.000 |

The purpose of the planned investment is to strengthen the hydraulic machinery production in the company. According to the Norwegian authorities, the aid to be granted to *Mjosundet Båt og Hydraulikk A/S* will on the other hand not increase the company's shipbuilding capacity.

## **II. APPRECIATION**

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

The planned financial participation of the SND in the project will be arranged under existing aid schemes, on the one hand the SND Regional investment grant scheme and on the other hand the SND Regional risk loan scheme. The Authority has been informed of both of these schemes as State aid scheme existing at the time of entry into force of the EEA Agreement (State Aid No. 93-143 and State Aid No. 93-145, respectively).

The proposed grant of NOK 1,1 million, to be awarded under the SND Regional investment grant scheme, constitutes State aid within the meaning of Article 61(1) of the EEA Agreement.

The question whether and to what extent the planned SND Regional risk loan of NOK 2,6 involves an element of State aid will in the present case be assessed in the light of the terms of the loan and the available information on the risks involved.

Under the SND Regional risk loan scheme, the credit terms to a certain extent take account of the relatively high risks, which are typically associated with such loans. The loans currently carry an interest rate of 6,9%, which, in view of the prevailing reference rate of interest for Norway of 5,63%, can be considered to involve a risk premium of 1,27%.

According to the Norwegian authorities, the loan will in the present case have a mortgage security in the company's property, with priority after NOK 6,8 million. Before the planned development of the property, its book value was approximately NOK 3 million. In view of the location and type of activity concerned, the Norwegian authorities consider that it would be difficult to find an alternative use for the property. In the event that MBH had to close down its activities, the loan would most likely be lost. On the basis of information submitted by the Norwegian authorities on the risk involved in this particular project, the probability of default is estimated to be

25%. Taking account of the annual risk premium of 1,27% over the term of the loan, the Authority has estimated the aid element in the loan at NOK 410 thousand.<sup>6</sup>

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 11 of the Shipbuilding Directive.

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

The aid beneficiary is a company whose activity in the shipbuilding sector, in particular its construction of metal hulled sea-going vessels of not less than 100 GRT, is covered by the Shipbuilding Directive (cf. Article 1(c) of the Directive). Hence, the Shipbuilding Directive constitutes relevant rules for assessment in this case. As the aid has the character of regional investment aid, it must also be assessed under the rules on regional aid.

### Regional aid rules

*Mjosundet Båt og Hydraulikk A/S (MBH)* is located in the municipality of *Aure*, in the county of *Møre og Romsdal*. According to the map of assisted areas in Norway, which was authorised by the EFTA Surveillance Authority Decision No. 110/98/COL of 28 April 1998, the municipality of *Aure* belongs to Target zone B, implying that enterprises located in that municipality are eligible for regional investment aid. In Target zone B, the maximum regional investment aid is 25%, in net grant equivalent (NGE) terms, of the eligible costs, and a supplement of 5% (gross) is allowed for small and medium-sized enterprises (SMEs).

According to the information cited above, MBH has currently 45 employees, its turnover for 1996 was NOK 32 million (approx. ECU 3,9 million) and the balance sheet total at the end of 1996 was NOK 9 million (approx. ECU 1,1 million). The company is independent from non-SMEs. This information therefore confirms that the company qualifies as a small and medium-sized enterprise (SME) within the meaning of the SME-definition in Chapter 10 of the State Aid Guidelines. The relevant aid ceiling is therefore 25% NGE plus a supplement of 5% gross.

With reference to the above information on the breakdown of the project costs, they all relate to costs in fixed production assets. The eligible investment costs are therefore NOK 7,4 million. To contribute to financing these costs, the SND proposes to offer an investment grant of NOK 1,1 million, which corresponds to an aid intensity of 14,9%. It also plans to provide a risk loan of NOK 2,6 million. As has been concluded above, that loan is estimated to contain an aid element of NOK 410 thousand, which corresponds to 5,5% of eligible investment costs. The two aid

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<sup>6</sup> It can be noted that although this estimate is entirely based on anticipated risks associated with this particular loan, the result is well in line with calculations which the Norwegian authorities have made available to the Authority on SND's average net costs of regional risk loans in a corresponding category.

measures are therefore considered to involve an aid element corresponding to 20,4% of the eligible costs. Consequently, the combined aid level is within the relevant maximum aid ceiling for regional investment aid.

#### Relevant provisions of the Shipbuilding directive

As regards investment aid to shipyards, Article 6(1) of the Shipbuilding Directive provides that such aid may not be granted for the creation of new shipyards or for investment in existing yards unless it is linked to a restructuring plan which does not involve any increase in the shipbuilding capacity of the yard or unless it is directly linked to a corresponding irreversible reduction in the capacity of other yards in the same EEA State over the same period.

Article 6(3) establishes that the amount and intensity of aid must be justified by the extent of the restructuring involved and that the aid must be limited to supporting expenditure directly related to the investment.

Article 6(4) states that when examining the aid, the Authority shall take account of the extent of the contribution of the investment programme concerned to such common objectives for the sector as innovation, specialization, working conditions, health, safety and the environment.

As has been mentioned above, MBH has two separate lines of production, production of hydraulic equipment for boats and shipbuilding proper. The company's turnover is currently split approximately evenly between these two areas. The existing shipbuilding hall has so far been used for both of these activities. The company now plans to reorganise its operations by basing its activities in the future to a larger extent on production of hydraulic equipment. For this purpose it intends to build a new production hall and administration building, as well as investing in related equipment. Specialized production of components for boats and ships, such as hydraulic equipment, does not fall within the scope of the Shipbuilding Directive, cf. the definitions of 'shipbuilding', 'ship conversion' and 'ship repair' in Article 1 of the Directive. The new investments will accordingly not be used for shipbuilding proper.

The fact that the production of hydraulic equipment will be transferred from the existing shipbuilding hall to a new production hall could in theory be considered to make room for increased shipbuilding capacity. However, the new investments will result in no physical increase in shipbuilding capacity. The Norwegian authorities have given their assurances that the company has no plans to increase shipbuilding activity. On the contrary, the purpose of the project is to further develop the company's activities into non-shipbuilding activities.

The new production hall is expected to lead to higher productivity in the production of hydraulic equipment. The reorganisation can also be expected to make the shipbuilding activity more efficient. The measures are therefore likely to consolidate the company's financial condition and enhance its future viability.

The planned investments will at the same time result in improved working conditions for the employees through a reduction of dust in the production as well as by giving space to a new canteen and changing room for the employees.

With reference to the above facts and considerations, the investment to be supported by aid is considered to be linked to a restructuring plan which does not involve any increase in its shipbuilding capacity. The aid will actually not finance investments in facilities to be used for shipbuilding proper. The aid is limited to supporting expenditure directly related to the investments, and its amount and intensity is at any rate considered to be justified with reference to the extent of the restructuring involved. Although the investments concerned are only indirectly related to shipbuilding, they are likely to make it possible to improve efficiency in the company's shipbuilding activity.

For the above reasons the conditions set out in Article 6 of the Shipbuilding Directive are considered to be fulfilled. As concluded above, the aid also meets the general conditions for regional aid, as embodied in the map of assisted areas for Norway.

With reference to the above considerations, it is concluded that the proposed aid to *Mjosundet Båt og Hydraulikk A/S* qualifies for exemption under Article 61(3)(c) of the EEA Agreement as aid to facilitate the development of certain economic areas, without adversely affecting trading conditions to an extent contrary to the common interest.

#### **HAS ADOPTED THIS DECISION:**

1. The EFTA Surveillance Authority has decided not to raise objections to the proposed regional investment aid to the shipyard *Mjosundet Båt og Hydraulikk A/S*, as notified by the Norwegian authorities by telefaxes of 5 February 1998 (Doc. No. 98-724-A) and 1 April 1998 (Doc. No. 98-2147-A).

Done at Brussels, 20 May 1998.

For the EFTA Surveillance Authority

Knut Almestad  
President

Bernd Hammermann  
College Member