



EFTA SURVEILLANCE AUTHORITY

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Dec. No. 230/96/COL
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EFTA SURVEILLANCE AUTHORITY DECISION

OF 4 DECEMBER 1996

ON THE APPLICATION OF A NEW DEFINITION FOR SMALL AND MEDIUM-SIZED ENTERPRISES
FOR CERTAIN NORWEGIAN AID SCHEMES (NORWAY)

THE EFTA SURVEILLANCE AUTHORITY,

Having regard to the Agreement on the European Economic Area¹, in particular to Articles 61 to 63,

Having regard to the Agreement between the EFTA States on the establishment of a Surveillance Authority and a Court of Justice², in particular Article 1 of Protocol 3 thereof,

WHEREAS:

I. FACTS

1. The notification

By fax dated 24 October 1996, received at the EFTA Surveillance Authority on the same date (ref. 96-5999 A), the Norwegian Government notified the Authority of plans to adapt certain aid schemes to the revised definition of small and medium-sized enterprises (SMEs)³.

2. The contents of the proposal

The Norwegian Government has proposed plans to amend the rules of the aid schemes listed in the Annex to this decision by introducing the SME definition presented below:

¹Hereinafter referred to as the EEA Agreement

²Hereinafter referred to as the Surveillance and Court Agreement

³A new definition of SMEs was introduced in Chapter 10 of the Procedural and Substantive Rules in the Field of State Aid adopted by the Authority on 19 January 1994 (State Aid Guidelines), when the Authority revised the rules on aid to SMEs by amending chapter 10 on 11 September 1996 (Dec. No: 112/96/COL).

- (1) An SME is defined as an enterprise which:
- has fewer than 250 employees and has either
 - an annual turnover not exceeding ECU 40 million, or
 - an annual balance-sheet total not exceeding ECU 27 million, and
- conforms to the criterion of independence defined below.
- (2) Where it is necessary to distinguish between "small" and "medium-sized" enterprises, a "small" enterprise is defined as one which:
- has fewer than 50 employees and has either,
 - an annual turnover not exceeding ECU 7 million, or
 - an annual balance-sheet total not exceeding ECU 5 million, and
- conforms to the criterion of independence defined below.
- (3) An enterprise is considered independent unless 25% or more of the capital or of the voting rights is owned by an enterprise falling outside the definition of an SME or of a small enterprise, whichever may apply, or jointly by several such enterprises. This ceiling may be exceeded in two cases:
- if the enterprise is held by public investment corporations, venture capital companies or institutional investors, provided no control is exercised either individually or jointly,
 - if the capital is spread in such a way that it is not possible to determine by whom it is held and if the enterprise declares that it can legitimately presume that it is not owned as to 25% or more by one enterprise, or jointly by several enterprises, falling outside the definitions of an SME or a small enterprise, whichever may apply.

II. APPRECIATION

All schemes listed in the Annex to this decision, have been registered by the Authority as existing aid schemes in accordance with the notion of existing aid defined in section 7.2 of the State Aid Guidelines.

An alteration of an existing aid scheme must be notified to the Authority in accordance with Article 1(3) of Protocol 3 to the Surveillance and Court Agreement before it is put into effect. The SME definition determines i.a. an enterprise's eligibility for aid from certain schemes limited to SMEs, while for other schemes it concerns aspects such as the relevant aid intensity and the type of aid that may be granted in specific circumstances.

The suggested change of the SME definition must therefore, in accordance with paragraph 3.2.1.(3) of the State Aid Guidelines be regarded as substantive and covered by the EFTA States' obligation to inform the Authority in sufficient time enabling it to submit its comments on any plans to grant or alter aid. It must thus be concluded that the Norwegian authorities have by the notification of 24 October 1996 fulfilled their obligation under Article 1(3) of Protocol 3 to the Surveillance and Court Agreement to notify plans to grant or alter aid.

The alteration of an aid scheme requires the Authority to assess the compatibility of the scheme as a whole with the EEA Agreement, unless the particularities of the amendment allow a separate assessment and, hence, can be decided upon independently.

In the case at hand, there can be no doubt that the SME definition proposed by the Norwegian authorities, is conceptually separable from other legal provisions of the schemes listed in the Annex to this decision. A separate assessment is therefore possible.

The wording of the definition proposed by Norway, is identical with the SME definition in paragraphs 10.2.(1)-(3) of the State Aid Guidelines.

The Authority must on the grounds referred to above conclude that it has not found reasons to raise any objections to the Norwegian Government's plan to apply the proposed SME definition for the schemes listed in the Annex to this decision.

HAS ADOPTED THIS DECISION:

The EFTA Surveillance Authority has decided not to raise objections to Norway's plans, as notified on 24 October 1996 (ref. 96-5999 A), to apply the proposed SME definition as to the schemes listed in the Annex to this decision.

Done at Brussels, 4 December 1996

For the EFTA Surveillance Authority

Knut Almestad
President

Björn Friðfinnsson
College Member

Annex
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- Aid No 93 - 140 SME grant scheme, central regions
- Aid No 93 - 141 Development grants (SND)
- Aid No 93 - 143 Regional investment grants (SND)
- Aid No 93 - 153 Grants for development of business and industry (SND)
- Aid No 93 - 154 Entrepreneur grant scheme (SND)
- Aid No 93 - 155 National programmes for regional development
- Aid No 93 - 157 Strategic export promotion
- Aid No 93 - 165 Export development programme for SMEs
- Aid No 93 - 169 Aid for development and diffusion of cleaner technologies
- Aid No 93 - 170 Aid for waste reduction and waste recycling
- Aid No 93 - 181 Industrial R&D Projects
- Aid No 93 - 182 Public R&D Contracts
- Aid No 93 - 183 Industrial R&D Programmes
- Aid No 93 - 185 Technical aids for disabled (Funk)
- Aid No 93 - 216 SIVA-Corporation for industrial estates
- Aid No 93 - 412 Municipal development funds
- Aid No 95 - 003 Development grants scheme, central regions (SND)
- Aid No 95 - 006 Aid to regions dependent on a single industry
- Aid No 95 - 015 Industrial R&D contracts