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# *EFTA SURVEILLANCE AUTHORITY*

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## EFTA SURVEILLANCE AUTHORITY DECISION

OF 14 DECEMBER 1994

TO PROPOSE APPROPRIATE MEASURES TO NORWAY ON AID FOR ENVIRONMENTAL  
PROTECTION

THE EFTA SURVEILLANCE AUTHORITY,

Having regard to the Agreement on the European Economic Area<sup>1</sup>, 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 Justice<sup>2</sup>, in particular Article 1 of Protocol 3 thereof,

WHEREAS:

### **I. FACIS**

#### **1. Introduction**

Article 1(1) of Protocol 3 to the Surveillance and Court Agreement provides that the EFTA Surveillance Authority shall, in co-operation with the EFTA States, keep under constant review all systems of aid existing in those States. It shall propose to the latter any appropriate measures required by the progressive development or by the functioning of the EEA Agreement.

By letter dated 4 January 1994 (ref. 94-469 D) the EFTA Surveillance Authority requested information on all existing aid measures in Norway. By letters of 4 and 24 March 1994 the Norwegian authorities provided information on such measures. As agreed in meetings held between officials from the State Aid and Monopolies Directorate of the EFTA Surveillance Authority and Norwegian authorities in Oslo 12 and 13 June 1994, additional information on aid for environmental protection in Norway was submitted to the Authority by letter 19 August 1994.

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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.

An initial examination of the aid schemes covered by this decision, described under points I.2.1.-5. below, indicated that the legal provisions were not altogether compatible with the Surveillance Authority's rules on State aid for environmental protection laid down in Chapter 15 of the Procedural and Substantive Rules in the Field of State Aid adopted by the Authority on 19 January 1994<sup>3</sup>. For this reason the matter was taken up at the meeting between officials from the Ministry of Environment, the Ministry of Industry and Energy and the EFTA Surveillance Authority in Oslo on 11 October 1994.

## **2. Background information on the aid schemes and aid programmes covered by this decision**

### **2.1. Case no 93-169 Aid for development and diffusion of cleaner technologies (Tilskudd til utvikling av miljøteknologi i næringslivet)**

Case no 93-169 Aid for development and diffusion of cleaner technologies is administered by the Norwegian Pollution Control Authority<sup>4</sup> on behalf of the Ministry of Environment. The scheme covers awards of aid in the form of direct grants financed over State budget chapter 1441 post 70. Total budget for 1994 is NOK 48 million. The background information submitted by Norway covers relevant parts of the State budget<sup>5</sup> and information enclosed in the standard form for the Authority's inventory on existing aid.

Awards of aid may cover aid to reduce the costs of the following cost categories; land, buildings, equipment, training of personnel, consultancy fees and environmental audits in enterprises. The funds are intended to cover two main categories of projects;

- demonstration projects, with the objective of using existing technology or using existing products in new ranges of application, and
- support to technical environmental analyses for the purpose of waste reduction and/or reduced discharges to air and water.

Specific guidelines, which reflect the principles laid down in Chapter 15 of the State Aid Guidelines have not been developed for the scheme. Awards of aid are therefore granted at the discretion of SFT.

### **2.2. Case no 93-170 Aid for waste reduction and waste recycling (Tilskudd til avfallsminimering og spesialavfallssystemet mm.)**

Case no 93-170 Aid for waste reduction and waste recycling is administered by the Ministry of the Environment and funded over State budget chapter 1442 post 70. Total budget for 1994 is NOK 76.5 million. The background information submitted by Norway covers relevant parts of the State budget, Circular letter T-

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<sup>3</sup>Hereinafter referred to as the State Aid Guidelines

<sup>4</sup>Statens Forurensingstilsyn, hereinafter referred to as SFT

<sup>5</sup>St.prp. nr. 1 Miljøverndepartementet (1993-94), page 127

7/93<sup>6</sup> and information enclosed in the standard form for the Authority's inventory on existing aid.

The scheme covers both aid for general investment in land, buildings and equipment and cost categories covered by the notion of soft aid for consultancy help and training, information campaigns and environmental surveys and audits. Aid may also be granted to repair past environmental damage. According to the Norwegian authorities current practice is to award aid in the form of grants up to a general ceiling of 25 % of the project costs, while the ceiling for investment in tangible assets is 20 %. Projects receiving support in the form of grants under this scheme may also qualify for aid in the form of loan guarantees (see case no 93-171 below). Thus, a theoretical maximum aid intensity of up to 100 per cent is possible through cumulation of aid from different sources, although total State involvement shall normally not exceed 75 %<sup>7</sup>.

Priority is given to waste recycling projects, to projects aimed at using waste as raw material in new products or production processes and to full scale projects aimed at improved systems for collection and handling of hazardous waste. Operating aid currently provided for waste collection is to be gradually phased out as soon as the foreseen regulations on collection, sorting and recycling of pasteboard and similar products have entered into force<sup>8</sup>.

The guidelines contained in Circular letter T-7/93 are of a general nature and refer only to the objectives of the scheme.

### 2.3. Case no 93-171 Loan guarantees for investment in cleaner technologies, waste reduction and recycling (Oppfyllelse av garantiansvar for miljøvernålan)

Awards of aid under case no 93-171 Loan guarantees for investment in cleaner technologies, waste reduction and recycling are subject to decision by the Ministry of Environment after initial examination and preparation of individual cases by the Norwegian Industrial and Regional Development Fund<sup>9</sup>. The scheme is funded over State budget chapter 1442 post 73 with a total volume of guaranteed loans for 1994 amounting to NOK 100 million. The background information submitted by Norway covers relevant parts of the State budget, the society rules of SND, Product sheet no 10 published by SND, Circular letter T-7/93 and information enclosed in the standard form for the Authority's inventory on existing aid.

The scheme covers loan guarantees for investment in cleaner technology, development of environmentally friendly products and production processes and investment related to special treatment of hazardous waste or waste recycling. The guarantees may cover loans granted by SND or other credit institutions free of

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<sup>6</sup>Rundskriv T-7/93 Tilskots og låneordninger på forureiningsområdet, Miljøverndepartementet

<sup>7</sup>St.prp. nr. 1 (1993-94) Miljøverndepartementet, kap. 1442 post 73.

<sup>8</sup>The new regulations will enter into force in the course of 1994.

<sup>9</sup>Statens nærings- og distriktsutviklingsfond, hereinafter referred to as SND

charge up to 75 % of the investment. Information on the value of the guarantees based i.a. on observed default ratios has not been provided to the Authority. The guarantees may be combined with other aid instruments, notably direct grants under case no 93-170.

Before the state guarantees may be granted, SND is obliged to ensure that the loans to be guaranteed are issued on commercial terms. Such loans shall primarily be mortgage loans or have an equivalent security. In cases when the guaranteed loans are granted by SND, the loan financing is provided on terms comparable to first priority loans. However, the SND may accept that the guaranteed loans have a lower priority than loans issued by other creditors in cases of default or bankruptcy. The Ministry of Environment is to act as an ordinary creditor within the limits of the Law on composition proceedings and bankruptcy.

Specific guidelines, which reflect the principles laid down in Chapter 15 of the State Aid Guidelines have not been developed for the scheme. Awards of aid are therefore granted at the discretion of SND within the framework of its society rules.

#### 2.4 Awards of aid for environmental protection granted by SND

SND may, at its own discretion, grant aid or financing on commercial terms to projects with an environmental dimension under aid schemes with environmental protection as a secondary objective or under specific aid programmes<sup>10</sup>. According to SND's information sheet no 1 "SND - a supporter for enterprises conscious of the need to protect the environment"<sup>11</sup>, the institution had at its disposal NOK 5.8 billion in the form of loans, guarantees, grants and funds for equity injection in 1993<sup>12</sup>. These funds are administered by SND for different and often mixed objectives, i.a. aid for regional development, promotion of small and medium-sized enterprises, research and development figure and environmental protection. The figures referred to above include equity capital or loans on commercial terms, which do not constitute State aid in the meaning of Article 61(1). According to information sheet no 1, SND can support

- new establishment in the field of environmentally friendly technology,
- technological improvements concerning production processes with the objective of cost reduction and environmental improvements,
- development and commercialization of environment-related technology or products and
- amelioration of systems and development of skills for the purpose of environmental protection.

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<sup>10</sup>The difference between an aid scheme and an aid programme, is that an aid scheme is normally linked to a specific budget line in the State budget, while an aid programme often covers financial instruments financed over different budget lines, thereby constituting "a menu" of different measures designed for promoting specific objectives.

<sup>11</sup>Informasjonsark nr. 1, SND - støttespiller for miljøbevisste bedrifter

<sup>12</sup>A similar amount is available in 1994.

SND runs a programme for energy-saving and a programme for environmentally friendly products. Both programmes appear to have environmental protection as their primary objective.

According to the information contained in product-sheet number 12 published by SND, the latter programme is based on a financing arrangement with the Ministry of Local Government and Labour. The objective of the programme is to support regional development through development and commercialization of environmentally friendly products. Such products are defined as products that are developed or adapted for the purpose of solving environmental problems or preventing environmental damage.

Clear guidelines or specific provisions for awards of aid for environmental protection have not been developed for the schemes and aid programmes administered by SND.

## 2.5 Case no 93-172 Guarantee and loan to the company responsible for hazardous waste

Case no 93-172 Guarantee and loan to the company responsible for hazardous waste is administered by the Ministry of Environment. The decision to establish a company responsible for treatment of hazardous waste was taken by the Norwegian Parliament in 1991<sup>13</sup> on the basis of Government white paper nr. 103 (1990-91)<sup>14</sup>. The company is jointly owned by the Norwegian Government (56.5 %) and certain large Norwegian enterprises (43.5 %). Total share capital of the company is NOK 135 million.

The company was established to serve as a national policy instrument for the handling of hazardous waste and has as such a responsibility for i.a. treatment of waste, planned capacity of specialized facilities for that purpose, for technological aspects of waste treatment and for questions related to localization of production facilities. Foreseen total investment was estimated to a maximum of NOK 580 million in 1991.

In order to reduce the overall risk related to the venture, it was decided by the Norwegian Parliament that the State may grant a loan up to a maximum of NOK 100 million and that it may guarantee for up to 55 per cent of financing from external sources within a limit of NOK 250 million. The State loan is to be granted on commercial terms, while the State guarantee is free of charge.

As the company is still under development, State guarantees amounting only to NOK 16.5 million were granted in 1993. The EFTA Surveillance Authority has not received any estimates concerning the volume of State loans and guarantees for 1994, any information on the perceived risk related to the project or estimates of the expected return on the State's capital injection. In the absence of such information, the theoretical maximum of State aid that may be granted to the company is equal to the total volume of equity capital injections and State guarantees, NOK 326 million.

## **II. APPRECIATION**

### **1. Principles for assessment**

The schemes covered by this decision concern aid for environmental protection. The activities carried out under the schemes constitute aid in the meaning of Article 61(1) of the EEA Agreement either by providing direct financial support to individual enterprises or through measures by which the benefiting enterprises do not pay the full cost of the services supplied. The EFTA Surveillance Authority has therefore been obliged to assess, as part of its constant review of existing aid under Article 1(1) of Protocol 3 to the Surveillance and Court Agreement, whether the relevant provisions of the schemes described under points I.2.1.-5

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<sup>13</sup>31 October 1991 Innst. S. nr. 24 (1991-92)

<sup>14</sup>St.prp. nr. 103 (1990-91) Om dannelsen av selskap for behandling av spesialavfall m.m.

above are in line with the principles laid down in Chapter 15 of the State Aid Guidelines.

If the principles laid down in Chapter 15 are observed, aid for environmental protection may qualify for exemption under Article 61(3)(c) of the EEA Agreement to facilitate the development of certain economic activities, where such aid does not adversely affect trading conditions to an extent contrary to the common interest.

In accordance with its obligation under Article 1(1) of Protocol 3 to the Surveillance and Court Agreement to keep all existing systems of aid under constant review, the Authority aims at obtaining a sufficiently high degree of transparency in the application of aid schemes. This means that the legal provisions or guidelines of aid schemes must provide clear statements of the objectives to be achieved, the beneficiaries, and the different categories of costs the aid schemes are designed to reduce. In addition the aid must be given in a form which allows the aid intensity to be calculated in relation to the cost categories eligible for aid.

## **2. Aid for protection of the environment**

The rules on State aid for environmental protection under the EEA Agreement that must be observed by the responsible authorities and reflected in guidelines for such aid schemes are laid down in Chapter 15 of the State Aid Guidelines. For the purpose of this decision a brief outline on the types and levels of aid that may be acceptable for the Authority based on the principles laid down in Chapter 15 of the State Aid Guidelines, is provided as Annex 1 of this decision.

Aid for research and development in the environmental field is subject to the rules set out in Chapter 14 of the State Aid Guidelines. A brief outline of the basic principles and the levels of aid that may be acceptable for the Authority on aid for R&D is therefore provided as Annex 2 of this decision.

## **3. Assessment**

As may be seen from the background information presented under points I.2.1.-3. above, awards of aid for environmental protection under case numbers 93-169, 93-170 and 93-171 are granted at the discretion of the respective responsible authorities and not subject to specific provisions which reflect the principles laid down in Chapter 15 of the State Aid Guidelines. The present situation is therefore considered to be inadequate for the purpose of State aid control due to the general lack of transparency in the application of these aid schemes.

With reference to case no 93-171, the Authority has not received information on the aid element related to loan guarantees for investment in cleaner technologies, waste reduction and recycling. Aid for investment is only transparent when it is

measurable using the common method presented in Chapter 27 of the State Aid Guidelines<sup>15</sup>.

The information submitted from Norway on aid schemes and programmes administered by SND, indicates that this institution does not only have a certain responsibility on aid for environmental protection under case number 93-171, but may also grant aid for environmental protection under programmes designed specifically to promote environmental protection and energy conservation and under aid programmes or aid schemes with other primary or mixed objectives. In the absence of specific guidelines for awarding aid for environmental protection which reflect the principles laid down in Chapter 15 of the State Aid Guidelines, it may be concluded that the present situation is not sufficiently transparent for the purpose of State aid control. The necessary degree of transparency may be obtained either by developing separate detailed provisions on aid for environmental protection for all relevant programmes and schemes (i.e. where aid for this objective may be granted) or, alternatively, by a horizontal approach. However, questions related to design of aid schemes is, in general, a matter to be decided by national authorities, while the EFTA Surveillance Authority aims at establishing the necessary degree of transparency for the purpose of State aid control.

The information on the schemes covered by this decision indicates certain potential problems, i.a. concerning establishing the value of loan guarantees under case no 93-171 and high aid intensities when grants under case no 93-170 are combined with loan guarantees under case no 93-171. On the basis of current guidelines and other information supplied by Norway, it cannot be established whether the established practice in Norway concerning aid for environmental protection is in line with the rules on State aid under the EEA Agreement or not. In the present situation a clear conclusion may only be drawn on the basis of an examination of individual awards of aid under each scheme.

The Authority does as a general rule not aim at individual examination of awards of aid, but rather to ensure that the responsible authorities operate aid schemes falling under their responsibility subject to provisions under which it may be expected that the rules on State aid under the EEA Agreement are observed. The Authority is of the view that the necessary degree of transparency can only be achieved if awards of aid are granted on the basis of provisions which adequately reflect the principles laid down in chapters 15 and 14 of the State Aid Guidelines. An account of the generally accepted aid intensities is provided in Annex 1 and 2 to this decision. The Norwegian authorities must therefore lay down guidelines for this purpose for case numbers 93-169, 93-170, 93-171 and for aid schemes and programmes administered by SND under which aid for environmental protection may be awarded. In addition, simplified annual reports on the operation of case numbers 93-169, 93-170 and 93-171 must be submitted to the Authority.

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<sup>15</sup>The method for measuring aid in the form of loan guarantees is described under point 26.2.(8) of the State Aid Guidelines.



With reference to case no 93-172 Guarantee and loan to the company responsible for hazardous waste, the Authority acknowledges that State aid may be granted to cover all or part of the operating costs of waste disposal or waste recycling facilities. However, for the Authority to fulfil its obligations under Article 1(1) of Protocol 3 to the Surveillance and Court Agreement to keep all systems of State aid in the territory of the EFTA States under constant review, the Norwegian authorities must submit a detailed annual report on the aid granted to the company responsible for hazardous waste. The information to be submitted to the Authority must be in accordance with the structure reproduced in Annex III to the State Aid Guidelines.

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

1. The EFTA Surveillance Authority proposes to Norway on the basis of Article 1(1) of Protocol 3 to the Surveillance and Court Agreement, the following appropriate measures with regard to the aid schemes described under points I.2.1-5 of this decision.

(i) The Norwegian authorities shall introduce guidelines with detailed provisions concerning aid for environmental protection for case numbers 93-169 *Aid for development and diffusion of cleaner technologies (Tilskudd til utvikling av miljøteknologi i næringslivet)*, 93-170 *Aid for waste reduction and waste recycling (Tilskudd til avfallsminimering og spesialavfallssystemet mm.)*, case no 93-171 *Loan guarantees for investment in cleaner technologies, waste reduction and recycling (Oppfyllelse av garantiansvar for miljøvernlån)* and *aid schemes and aid programmes administered by SND* where awards of aid for this objective may be granted. Such guidelines must ensure that aid for environmental protection is granted in accordance with the principles laid down in Chapter 15 of the State Aid Guidelines (cf. Annex 1 to this decision).

(ii) In relevant cases of application, namely for case no 93-169 and awards of aid for environmental protection granted by SND, the aid award criteria to be laid down in detailed provisions must be given in such a way that when aid is directed towards R&D activities, it is ensured that the conditions comply with the principles laid down in Chapter 14 of the State Aid Guidelines. The maximum aid intensities for different types of R&D activities indicated in the Guidelines must be reflected in the relevant provisions (cf. Annex 2 to this decision).

(iii) The Norwegian authorities must submit simplified annual reports (See Annex IV of the State Aid Guidelines) on the operation of case numbers 93-169, 93-170 and 93-171 and submit a detailed annual report (See Annex III of the State Aid Guidelines) on case no 93-172 *Guarantee and loan to the the company responsible for hazardous waste*. The annual reports are to be submitted to the Authority within a period of 6 months following the end of each calendar year.

2. The Norwegian authorities must inform the EFTA Surveillance Authority on the adoption of such provisions, insofar as these involve State aid, before they are put into effect.
3. The amendments are to be put into effect as soon as possible and not later than 31 March 1995.
4. The Norwegian authorities must inform the Surveillance Authority of the acceptance of the above measures or otherwise submit its observations on the above measures by 15 January 1994.
5. The Norwegian authorities are reminded of their obligation to notify individual aid awards to sensitive sectors as laid down in Part V of the State Aid Guidelines and in the Act referred to in point 1 a of Annex XV to the EEA Agreement establishing Community rules for aid to the steel industry (Commission Decision No. 3855/91/ECSC). Alternatively, these sectors can be excluded from the application of the schemes.

Done at Brussels, 14 December 1994

For the EFTA Surveillance Authority

Björn Friðfinnsson  
Acting President

Heinz Zourek  
College Member

**COLLEGE DECISION 247/94/COL**

**Basic principles on aid for environmental protection**

The rules on state aid for environmental protection that must be observed and reflected in guidelines for such aid schemes are laid down in Chapter 15 of the State Aid Guidelines. For the purpose of this decision a brief outline on the types and levels of aid that may be acceptable for the Authority, in order to strike a balance between the requirements of competition and environment policy is provided below.

Aim and scope of the rules on State aid for environmental protection

Aid for environmental protection must be strictly confined to measures with a clearly intended or de facto contribution to the protection of the environment, i.a. by eliminating or reducing pollution and nuisances or by adapt production methods. In any case aid ostensibly intended for environmental protection, but in fact general aid with only insignificant impact on the environment, are not covered by the rules on aid for environmental protection.

The rules apply to aid in any form whatsoever for investment, information activities, training and advisory services, temporary subsidies towards operating costs in certain cases and purchase of environmentally friendly products.

Aid for energy conservation is treated like aid for environmental purposes. State aid for environmental protection directed towards R&D activities is subject to the rules set out in Chapter 14 of the State Aid Guidelines.

Investment aid

Aid for investment must be confined to the extra costs necessary to meet environmental objectives. General investment costs not attributable to environmental protection must be excluded.

Aid for renewable energy is also subject to these rules, insofar as aid for investment is concerned.

*Aid to help firms adapt to new mandatory standards*

Aid for investment to comply with new mandatory standards or other new legal obligations and involving adaptation of plant and equipment to meet the new requirements can be authorised up to the level of 15 % gross of the eligible costs. Aid can be granted only for a limited period and only in respect of plant which has been in operation for at least two years when the new standards or obligations enter into force.

For SMEs, as defined in chapter 10 of the State Aid Guidelines, carrying out such investment an extra 10 percentage points gross of aid may be allowed. If the investment is carried out in assisted areas, aid can be granted up to the

applicable maximum aid ceilings foreseen for the area, plus, for SMEs, 10 percentage points gross in Article 61(3)(c) areas.

In keeping with the "polluter pays" principle, no aid should normally be given towards the cost of complying with mandatory standards in new plant. However, firms that instead of simply adapting existing plant more than two years old opt to replace it by new plant meeting the new standards may receive aid in respect of that part of the investment costs that does not exceed the cost of adapting the old plant.

If both EEA and national mandatory standards exist for one and the same type of nuisance or pollution, the relevant standard for the purposes of this provision shall be the stricter one.

*Aid to encourage firms to improve on mandatory standards*

Aid for investment that allows significantly higher levels of environmental protection to be attained than those required by mandatory standards may be authorised up to a maximum of 30% gross of the eligible costs. The level of aid actually granted for exceeding standards must be in proportion to the improvement of the environment that is achieved and to the investment necessary, for achieving the improvement.

If the investment is carried out by SMEs, an extra 10 percentage points gross of aid may be allowed. In assisted areas, aid can be granted up to the applicable maximum aid ceiling for the area, plus, 10 percentage points gross in Article 61(3)(c) areas.

If both EEA and national mandatory standards exist for one and the same type of nuisance or pollution, the relevant standard for the purposes of this provision shall be the stricter one.

Where a project partly involves adaptation to standards and partly improvement on standards, the eligible costs belonging to each category are to be separated and the relevant limit applied.

*Aid in the absence of mandatory standards*

In fields in which there are no mandatory standards or other legal obligations on firms to protect the environment, firms undertaking investment that will significantly improve on their environmental performance or match that of firms in other EEA States in which mandatory standards apply may be granted aid at the same levels and subject to the same condition of proportionality as for going beyond existing standards (see above).

Where a project partly involves adaptation to standards and partly measures for which there are no standards, the eligible costs belonging to each category are to be separated and the relevant limit applied.

### *Aid for information activities, training and advisory services<sup>16</sup>*

Aid provided for general information campaigns to increase environmental awareness and provide specific information about i.a. selective waste collection, conservation of natural resources or environmentally friendly products, may either fall outside the scope of Article 61(1) or normally be exemptible.

Aid may be authorized for provision of training and consultancy help to firms on environmental matters. For SMEs such aid may be granted up to 50 % of the eligible costs. In assisted areas aid for at least the authorized rate of investment aid may be accepted by the Authority for both SMEs and larger firms.

### *Operating aid<sup>17</sup>*

The EFTA Surveillance Authority will not normally approve operating aid which relieves firms of costs resulting from the pollution or nuisance they cause. However, the Authority may make exceptions in certain well defined circumstances, i.a. in the field of waste management and with respect to relief from environmental taxes.

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<sup>16</sup>See section 15.4.2 of the State Aid Guidelines

<sup>17</sup>See section 15.4.3.

## COLLEGE DECISION 247/94/COL

### Basic principles on aid for R&D

#### Definitions

As explained in Chapter 14 of the State Aid Guidelines the EFTA Surveillance Authority's basic approach to assessing aid for R&D is to examine the nature of the R&D activities involved and to classify these activities depending on their proximity to the market place. For this purpose the Authority uses certain indicative definitions related to the following groups of R&D activities;

- fundamental research,
- basic industrial research and
- applied research and development.

In general the intensity levels of aid, which can be approved, are lower the closer the R&D activity is to the market place.

#### Cost categories

In order to determine the relative intensity of awards of aid for R&D, such aid schemes must include provisions which clearly indicate how the aid intensities are to be calculated with reference to the eligible costs. In accordance with section 14.5 of the State Aid Guidelines, the following cost categories are considered eligible for State aid and must therefore to be identified for the purpose of calculating the intensity of aid for R&D activities:

- personnel costs (researchers, technicians, other supporting staff) calculated as a sum of the total amount needed to carry out the project,
- other running costs calculated in the same way (costs of materials, supplies, etc.),
- instruments and equipment, land and buildings. These costs may be taken into consideration only in so far as the assets are used exclusively for R&D.

Where

necessary, the costs must be assessed *pro rata* between these and other projects or activities for which the assets may be used,

- consultancy and equivalent services including bought-in research, technical knowledge, patents, etc. and
- additional overhead costs incurred directly as a result of the R&D project or programme being promoted.

### Aid intensities

As a general rule the level of aid for basic industrial research should not exceed 50 % of the gross costs of a project. As the activity gets nearer to the market-place, aid levels should be progressively lower. Thus, the EFTA Surveillance Authority generally accepts 25 % as the maximum aid intensity for applied research and development. If aid is given not in the form of grants, but in the form of conditional repayment credits, which can be written off only if a project has proved to be a failure, an aid ceiling of 40 % can be approved. In relevant cases of application, these ceilings can be enhanced by a 10 % top-up for small and medium-sized enterprises (SMEs), provided the enhancement is restricted to SMEs in accordance with the SME definition of the State Aid Guidelines (Chapter 10).

### Reporting obligations

The EFTA Surveillance Authority aims at obtaining the highest possible degree of transparency in the application of aid schemes. For this reason and in accordance with practice established by the Commission, it is necessary for the Authority to be assured on a regular basis that existing aid schemes are operated in accordance with the rules on State aid under the EEA Agreement by way of a system of annual reporting. The annual reporting formats reproduced in Annex III and IV of the State Aid Guidelines comprise specific entries for schemes covered by the rules on State aid for R&D.