



EFTA SURVEILLANCE AUTHORITY

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EFTA SURVEILLANCE AUTHORITY DECISION

of 11 November 1998

on aid for an R&D project by *MARINTEK A/S*
in co-operation with three Norwegian shipyards

(Norway)

THE EFTA SURVEILLANCE AUTHORITY,

Having regard to the Agreement on the European Economic Area¹, 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)²,

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 1904/96³ and Council Regulation (EC) No 2600/97⁴),

Having regard to the Agreement between the EFTA States on the establishment of a Surveillance Authority and a Court of Justice⁵, in particular Article 1 of Protocol 3 thereof,

WHEREAS:

¹ Hereinafter referred to as the EEA Agreement.

² 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, or for short as the Directive.

³ Council Regulations (EC) No 3094/95 and 1984/96 were incorporated into the EEA Agreement by Decision of the EEA Joint Committee No 85/97 of 12 November 1997.

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

⁵ Hereinafter referred to as the Surveillance and Court Agreement.

I. FACTS

1.1 The notification

By letter from the Mission of Norway to the European Union of 2 July 1998, registered by the Authority on 3 July 1998 (Doc. No. 98-4578-A), the Norwegian authorities notified, pursuant to Article 1(3) of Protocol 3 to the Surveillance and Court Agreement and Article 11 of the Shipbuilding Directive, their proposals for two grants in support of an R&D project by the research institute *Marintek A/S* and three shipyards. The first grant, given by the Norwegian Research Council ('*Norsk forskningsråd*'), NRC, had already been paid out when it was notified. As the two aid measures relate to the same project, they will both be assessed in the present decision.

By letter of 30 July 1998 (Doc. No. 98-5011-D), the Authority requested certain additional information. A response was received by telefax from the Ministry of Trade and Industry dated 7 September 1998, registered by the Authority on 8 September 1998 (Doc. No. 98-5662-A), and by letters from the Mission of Norway to the European Union of 9 September 1998, received on 11 September 1998 (Doc. No. 98-5757-A) and of 17 September 1998 (Doc. No. 5965-A).

1.2 Substance

1.2.1 Participants in the project

Marintek A/S ("*Norsk marinteknisk forskningsinstitutt A/S*"), a research institute situated in Trondheim, has the overall scientific responsibility for the project. The company has 230 employees. 56 % of the shares in *Marintek A/S* are owned by the *SINTEF* Group in Trondheim. The *SINTEF* Group is a self-financed foundation. Both enterprises are related to the University in Trondheim and the research activity that takes place there.

Verftsutvikling A/S, a consulting agency with long and broad experience within the shipbuilding sector, has the professional responsibility for certain elements of the project.

The three shipyards involved in the project are *Kvina Verft A/S*, situated in *Kvinesdal*, *Hellesøy-Nordfjord A/S* in *Nordfjordeid* and *Tangen Verft A/S* in *Kragerø*. The three companies are the main Norwegian shipyards specialised in hull construction, and they all have capacity to build metal-hulled ships larger than 100 GRT.

1.2.2 The aid project

The main objective of the R&D project, which is called "Effective unit-construction work stations", is to develop new production methods aimed at reducing production time in hull construction shipyards.

During the last decade, subcontractors, through the sale of new technology to contractors, have been responsible for many improvements in production methods of most of the world's major shipbuilders. The trend has been to focus on assembly-line

style production with emphasis on automation and transport. This development has not been in favour of Norwegian shipyards, which are small and compact and rely on continuous changes in production. Production methods based on workstations would therefore be of interest to Norwegian yards, this type of production being based on production methods already firmly established in Norway. The method is in principle a stationery production method (production carried out in one place) which ensures that tools and material are easily accessible to complete the task at hand. According to the notification, there is a great need to systemise, structure and further improve present production methods in Norwegian shipyards, in order to enable them to be competitive in the future.

The project concentrates on the steel processing activity (cutting, welding, etc.) and aims to cut man-hours in unit construction in the participating shipyards by 20%. The project will also focus on health and environmental measures, which are hoped to improve conditions at work, reduce accidents and employment-related sickness.

The project is organised in two stages. The first is a pre-project (definition phase). Its main objective is to map existing and new technology for station-oriented section building in the three shipyards and to evaluate the potential technological and productivity improvements with a view to establishing a possible main development project (second stage). The grant from the NRC was provided in support of the first stage.

The second stage involves testing new methods at the yards, adjusting and further developing them. This stage is divided into six development packages. *Marintek A/S* and other competence centres are responsible for the first part of each package. The second part, i.e. testing and developing new methods, will mainly be carried out in the shipyards in close contact with the research institutions. The project started in 1996 and is expected to reach its conclusion by the end of 1999.

1.2.3 Project costs

Total project costs, which the Norwegian authorities consider to be eligible for aid, are NOK 12 million. The first stage of the project was estimated to cost NOK 5 million, which are research costs incurred by *Marintek A/S*.

Total project costs for the testing/development stage are estimated at NOK 7 million. The breakdown of those costs is as follow:

Stage 2

Costs for experimenting and testing new production methods:

<i>Kvina Verft A/S</i>	wages	NOK	1.288.000	
	travel	“	85.000	
	investments	“	140.000	NOK 1.513.000
<i>Hellesøy-Nordfjord A/S</i>	wages	NOK	1.318.000	
	travel	“	85.000	
	investments	“	110.000	NOK 1.513.000

<i>Tangen Verft A/S</i>	wages	NOK	2.073.000	
	travels	“	96.000	
	investments	“	250.000	NOK 2.419.000
<u>Research fees:</u>				
<i>Verftutvikling A/S</i>		NOK	1.155.000	
<i>Marintek A/S</i>		“	400.000	
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Total costs		NOK	7.000.000	
Overall project costs, 1 st and 2 nd stage		NOK	12.000.000	

The wage costs in the shipyards includes wages of employees dealing with testing and further development in the yards. Travel expenses are in connection with project meetings. Investment expenditures cover equipment acquisitions and the organisation of production in such a way that tests can be carried out in order to set up “pilot stations”. Investments in equipment/machinery for ordinary production fall outside the framework of this project.

1.2.4 Project financing

The cost of the project will be financed as follows:

Stage 1

Grant from NRC		NOK	2.400.000
From labour market organisations' (NHO/LO) funds:			
Grant from <i>HF-B</i>		NOK	900.000
Grant from <i>NHO Arbeidsmiljøfond</i>		NOK	450.000
<u>Shipyards' own contribution</u>		NOK	<u>1.250.000</u>
Sub-total		NOK	5.000.000

Stage 2

SND grant		NOK	1.750.000
Contribution by shipyards:			
<i>Kvina Verft A/S</i>	NOK	1.510.000	
<i>Hellesøy-Nordfjord A/S</i>	“	1.510.000	
<i>Tangen Verft A/S</i>	“	2.230.000	NOK 5.250.000
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Sub-total		NOK	7.000.000
Overall financing		NOK	12.000.000

The grant from the Norwegian Research Council of NOK 2,4 million corresponds to 20% of the total project costs. The grant from the Industrial and Regional Development Fund (SND) of NOK 1,750,000 corresponds to 14,6% of the total project costs. This grant is to be awarded under an existing aid scheme, the SND Industrial R&D Contracts (aid no 95-015, ex aid no 93-147). No aid from other public sources than the SND and the NRC will be granted for the project.

II. APPRECIATION

2.1 The presence of State aid and notification formalities

The grant from the NRC and the proposed grant from SND in support of the project will relieve the beneficiaries, i.e. the three shipyards, of some of the costs of the project, whose objective is to develop new methods for making the companies' production of ship hulls more economical. The grants therefore represent economic advantages for the three shipyards. Given that ships, ship-hulls and shipbuilding activities are extensively traded in EEA and world markets, such economic advantages are liable to affect trade between the Contracting Parties to the EEA Agreement. The grants therefore represent State aid within the meaning of Article 61(1) of the EEA Agreement.

All three shipyards have the capacity to build metal-hulled boats above 100 GRT in size. Aid to the companies therefore comes within the scope of the Shipbuilding Directive. By notifying the proposed grant from the SND, the Norwegian authorities have respected the procedural requirements in Article 11 of the Directive. It is regrettable that the same procedure was not followed regarding the grant from the NRC. That aid is therefore, until the date of this decision, unlawful on procedural grounds. Nevertheless, it has now been notified, and the Authority is obliged to assess it on its merits.

2.2 Application of the relevant State aid rules

According to Article 8 of the Shipbuilding Directive, aid to defray expenditure by shipyards for research and development projects may be considered compatible with the functioning of the EEA Agreement. The relevant guidelines for the assessment of such aid are the rules on aid for research and development set out in Chapter 14 of the Authority's State Aid Guidelines⁶. In these guidelines, the Authority has in general expressed a favourable view on aid for R&D. That view is justified by several factors,

⁶ The term 'State Aid Guidelines' refers to the Procedural and Substantive Rules in the Field of State Aid, initially adopted by the EFTA Surveillance Authority on 19 January 1994 (OJ 1994, L231, EEA Supplement No 32, 3.9.1994), last amended on 4 November 1998 (not yet published). The presently applicable R&D guidelines were adopted by the Authority on 15 May 1996 (OJ 1996, L245, EEA Supplement No 43, 26.9.1996).

including the aim of such aid, the financial requirements and risks of R&D projects. It also takes account of the relative distance from the marketplace of such projects, and consequently the reduced likelihood that such aid will distort competition and trade. If aid for R&D projects meets the criteria in the Authority's Guidelines, such aid can be approved. Particular attention shall be paid to the kind of activity involved and its proximity to the market place, the type of expenditure to be supported and the aid intensity in relation to eligible costs.

As mentioned above, the purpose of the project is to develop and test new production methods for hull construction shipyards, such new methods being considered to be of particular importance for Norwegian shipyards given the particularities of their size and present methods of production. The project may result in the development of innovative methods that will strengthen the competitive position of these shipyards, particularly vis-à-vis competitors in low-cost non-EEA countries. The project will also focus on working conditions and environmental measures, which, it is hoped, will lead to improved health of the workforce and fewer accidents at work.

The project is expected to lead to considerable changes in production methods and to achieve significant savings in production time. It is expected to entail a far more wide-ranging development than the routine and periodic changes, which shipyards regularly make in their production and on-going work processes.

The result of the project will be made available to all enterprises in this particular sector, including interested shipbuilders in other EEA States. Information regarding the project is already being distributed via branch newsletters, info meeting etc. A final report will be published and the results made available to the whole sector. No fees will be charged for the use of the results, only costs to cover expenses directly related to printing and distribution of the report.

As for the classification of the types of R&D activities involved in the project, the Authority finds it appropriate to distinguish between the two stages of the project. Whereas it considers that the first stage of the project qualifies as a technical feasibility study preparatory to precompetitive development, the second stage is considered to represent precompetitive development.

In view of the relatively small size of the companies involved and their limited financial resources, the aid is considered to have an incentive effect by inducing the companies to pursue R&D activities, which they, in the absence of aid, are unlikely to venture.

The project costs, totalling NOK 12 million, consist of fees for research and development services of outside consultants (NOK 6.555.000), personnel costs within the three shipyards for the man-hours directly engaged in the project (NOK 4.679.000), investments in equipment for tests (NOK 500.000) and costs covering meetings regarding the project (NOK 266.000). These cost categories qualify as eligible costs for R&D projects according to point 14.6.(1) of the Authority's State Aid Guidelines.

The first stage of the project, whose total costs amount to NOK 5 million, benefits from a grant from the Norwegian Research Council of NOK 2,4 million, contributions from funds of labour market organisations (HF-B and NHO Arbeidsmiljøfond) amount to NOK 1,35 million, and the shipyards' own share of the financing is NOK 1,25 million. The funding from the labour market organisations is considered not to constitute State resources within the meaning of Article 61(1) EEA. The gross aid intensity for the first stage is therefore 48%.

For the second stage, with a total cost of NOK 7 million, the SND will contribute a grant of NOK 1,75 million, the remaining costs of NOK 5,25 million being financed by the shipyards. This implies a gross aid intensity of 25% for the second stage.

It shall be noted that the SND aid scheme, which will be applied to support the project, the SND Industrial R & D Contracts (aid no 95-015, ex aid no 93-147), has been assessed and authorised by the EFTA Surveillance Authority (cf. Decision No 130/95/COL of 14 December 1995).

According to section 14.5 of the State Aid Guidelines, the Authority determines the allowable aid intensity for R&D aid on a case-by-case basis, taking into consideration *inter alia* the nature of the project, the proximity of the R&D activity concerned to the market place, together with the risk of distortion of competition and the effect on trade between the Contracting Parties. However, as a general rule, the Authority has defined ceilings, ranging from 25% to 100%, for the different stages of R&D activity. Thus, for the type of R&D activity involved in the first stage of the project, feasibility studies preparatory to precompetitive development, a ceiling of 50% of eligible costs has been fixed as the permissible gross aid intensity, whereas for precompetitive development - an activity relatively close to the market - a ceiling of 25% is considered admissible. These ceilings can be increased in certain situations, including where the aid is to be given to a company qualifying as a small and medium-sized enterprise (SME), when an extra 10 percentage points can be accepted. Where the research project is carried out in a region qualifying for regional aid under Article 61(3)(c) EEA, a further 5 percentage points can be authorised.

Marintek A/S is responsible for the scientific part of the project and acts as a main competence centre. *Verftsutvikling A/S* has the professional responsibility for certain development packages. It is understood that both these research institutes render their services to the project in return for fees fixed on commercial terms. The project is carried out with an active participation of the three shipyards. It is expected to lead to concrete results with respect to the production methods of the three shipyards. In addition to the notified grants, the three shipyards are mostly responsible for the financing of the project. The three shipyards are therefore considered to be the beneficiaries of the grants.

In order to determine which aid intensity ceilings are applicable with respect to the beneficiaries of the aid, it is necessary to establish whether or not they qualify as SMEs. According to section 10.2 of the State Aid Guidelines, an SME is defined as an enterprise which (1) has fewer than 250 employees; and (2) has either an annual turnover not exceeding ECU 40 million or an annual balance-sheet total not exceeding ECU 27 million, and (3) whose capital or voting rights is not owned by 25% or more

by an enterprise falling outside the definition of an SME. The three tests are cumulative and they must all be satisfied.

Kvina Verft A/S has 125 employees and had a turnover in 1997 of NOK 34,8 million (approx. ECU 4 million). Its balance-sheet total was NOK 16.4 million (approx. ECU 1,9 million). The company is owned by *Flekkefjord Slipp og Maskinfabrikk A/S*, which is situated in the municipality of *Kvinesdal* and has 140 employees. In 1995, that company's turnover (incl. subsidiary) was NOK 364 million (approx. ECU 41,8 million), and its balance-sheet total was NOK 140 million (approx. ECU 16,1), i.e. the parent company qualifies as an SME. Taking into account the size of its subsidiary (*Kvina Verft A/S*), *Flekkefjord Slipp og Maskinfabrikk A/S* does not qualify as an SME. Consequently, *Kvina Verft A/S* is not an SME either. The admissible aid intensity in respect of *Kvina Verft A/S* is therefore 50% for the first stage of the project and 25% in the second stage.

Hellesøy-Nordfjord A/S has 100 employees. Its turnover in 1997 was NOK 67,2 million (approx. ECU 7,7 million) and the balance-sheet total was NOK 13,86 million (approx. ECU 1,6 million). It is owned by *Th. Hellesøy Skipsbyggeri A/S* in *Løfallstrand*. That company has 100 employees, its turnover in 1996 was NOK 197 million (approx. ECU 22,6 million) and the balance-sheet total was NOK 81 million (approx. ECU 9,3 million). Accordingly, *Hellesøy-Nordfjord A/S* qualifies as an SME. Being located in the municipality of *Eid*, which falls within Zone C of the map of assisted areas for Norway, it furthermore qualifies for regional aid under Article 61(3)(c) EEA. The admissible aid intensity in respect of *Hellesøy-Nordfjord A/S* is therefore 65% for the first stage of the project and 40% in the second stage.

Tangen Verft A/S is located in *Kragerø*, employs 275 persons, had a turnover in 1966 of NOK 132 million (approx. ECU 15,2 million) and its balance-sheet total was NOK 680 million (approx. ECU 78,2). Accordingly, *Tangen Verft A/S* does not qualify as an SME, and it is not located in an assisted area. The admissible aid intensity in respect of *Tangen Verft A/S* is therefore 50% for the first stage and 25% in the second stage.

With reference to the above considerations it is concluded that the actual aid intensities in the two stages of the project are within the admissible levels for all the three beneficiaries.

In its assessment the Authority has taken into account that: (i) the project involves co-operation between three shipyards and a research institute; (ii) there will be no intellectual property rights associated with the project, and that its results, although being of particular importance for the three shipyards, will be widely disseminated and published; (iii) the project is partly taking place in an assisted area and one of the shipyards qualifies as an SME's.

For the reasons stated above it is concluded that the notified aid qualifies for exemption under Article 61(3)(c) of the EEA Agreement, as aid to facilitate the development of certain economic activities 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 State aid for an R&D project by Marintek A/S, in co-operation with three Norwegian shipyards, as notified by letter from the Mission of Norway to the European Union of 2 July 1998 (Doc. No. 98-4578-A), by telefax from the Ministry of Trade and Industry dated 7 September 1998 (Doc. No. 98-5662-A), and by letters from the Mission of Norway to the European Union of 9 September 1998 (Doc. No. 98-5757-A) and of 17 September 1998 (Doc. No. 5965-A).

Done at Brussels, 11 November 1998.

For the EFTA Surveillance Authority

Knut Almestad
President

Hannes Hafstein
College Member