


EFTA SURVEILLANCE AUTHORITY

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EFTA SURVEILLANCE AUTHORITY DECISION

of 16 December 1998

on regional investment aid to the shipyard *Øksfjord Slipp & Mek AS*

(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 1904/96 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 of 29 July 1998 from the Mission of Norway to the European Union, registered by the Authority on 30 July 1998 (Doc. No. 98-5089-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 investment aid to the shipyard *Øksfjord Slipp & Mek AS (ØSM)*.

In a letter of 18 August 1998 (Doc. No. 98-5248-D), the Authority requested certain additional information. The Norwegian authorities responded to that request by telefax of 10 November 1998 from the Royal Ministry of Trade and Industry (Doc. No. 98-7621-A) and by letter of 17 November 1998 from the Mission of Norway to the European Union (Doc. No. 98-7837-A). Further information was submitted on 7 December 1998 by telefax from the Royal Ministry of Trade and Industry (Doc. No. 98-8316-A).

1.2 Substance

1.2.1 *Øksfjord Slipp & Mek AS*

Øksfjord Slipp & Mek AS (ØSM) is a small shipyard located in the municipality of *Loppa* in the county of *Finnmark*. The company was established in 1997, by transforming the company *Øksfjord Diesel og Mek. Verksted AS* and taking over the company *Vassdalen Industribygg AS*.

Vassdalen Industribygg AS was a real estate enterprise. *Øksfjord Diesel og Mek. Verksted AS* had a range of different kind of activities, including repair and maintenance of ships, other mechanical repairs and minor production activity, transport of persons and snow-clearing. In order to secure the future viability of *ØSM*, its activities are being reorganised, abandoning certain areas and concentrating mainly on repair and maintenance of ships.

1.2.2 The aid project

The planned project consists of building a double slipway in concrete, including two slip winches with a capacity to haul ships up to 80 feet long. It also includes installation of a new gate in the existing hall, making it possible to haul ships into the building. Furthermore, some readjustments of the slip wagons will be made.

The total estimated investment costs amount to NOK 2.345.000. These costs are all related to expenditures on fixed assets.

The planned financing of the project costs is as follow:

SND Low risk loan	NOK	660.000
SND Regional risk loan	"	590.000
SND Regional investment grant	"	590.000
<u>Own capital</u>	"	<u>505.000</u>
Total	NOK	2.345.000

II. APPRECIATION

2.1 The presence of State aid and notification formalities

The planned financial participation by the SND in support of the project will be arranged under three different schemes, the Low risk loan scheme (*Lavriskikolån*), Regional risk loan scheme and the Regional investment grant scheme. While, according to the Norwegian authorities, the first scheme covers well-secured, commercially based loans used for basic investment financing, and is not registered with the Authority as an aid scheme, the Authority has been informed of the two remaining schemes as existing aid at the time when the EEA Agreement entered into force (as Aid No. 93-145 and 93-143, respectively).

Article 61(1) of the EEA Agreement reads as follows:

Save as otherwise provided in this Agreement, any aid granted by EC Member States, EFTA States or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Contracting Parties, be incompatible with the functioning of this Agreement.

This implies that in order for a measure to constitute State aid, four cumulative criteria must all be fulfilled. The measure must: (1) represent a financial advantage to a firm or firms, (2) be granted through State resources, (3) be specific in nature, and (4) be capable of distorting competition and affecting intra-EEA trade.

A grant from the Industrial and Regional Development Fund (SND) obviously represents a financial advantage to the recipient. The extent to which this may also be the case with respect to risk loans from the SND will be considered below. The SND being a fully state-owned financial institution, any financial contribution by it is granted through State resources. Grants and loans to one particular company, such as *ØSM* in the present case, are evidently specific in nature. *ØSM*'s activity is based principally on a local market for repair and maintenance of fishing boats and small cargo vessels. However, ship repair services are relatively mobile in nature and traded to a considerable extent between the Contracting Parties to the EEA Agreement. Any financial benefits granted by the SND to *ØSM* must therefore, in principle, be considered capable of distorting competition and affecting intra-EEA trade, although, in view of the small amounts involved, such effects are in practice likely to be only minor. Furthermore, the measures fall within the scope of the Shipbuilding Directive, cf. section 2.2 below.

It follows from the above considerations that the SND Regional investment grant of NOK 590.000, corresponding to 25,2% of the eligible investment costs, constitutes State aid. The extent to which this may also be the case with regard to the proposed SND risk loans depends on whether they involve a financial advantage to the recipient. This will be assessed in the light of available information on the risks involved in the project and of the terms of the two loans.

The Norwegian authorities have, for the two loans involved, provided information on SND's total exposure to loss, calculated as a combination of operating risk (linked to the customer's ability to service the loan) and security risk (unsecured part of loan in case of bankruptcy). As ØSM, in its present form, has only recently been founded, historical information on financial performance is of limited relevance, but forecasts for the period 1999-2001 show positive net financial results in the region of 12 - 16% of turnover. Both loans are secured by mortgage in the company's assets.

The Low risk loan is within the value of the mortgage. The total exposure (combined risk) associated with that loan is low (1,2%). SND assesses the risk in each case, and the interest rate, which is determined case-by-case, varies accordingly. The Authority considers that in the present case, the low risk involved is covered by the risk premium included in the lending rate. Accordingly, the Low risk loan does not involve an element of State aid.

The Regional risk loan is somewhat less well secured and is estimated to have a combined risk of 8,7%. However, according to available statistics, the risk in this particular case is only approximately one third of the average calculated risk of loss for the loan scheme. Considering the relatively low risk in this case and taking into account the terms of the loan, in particular the fact that the lending rate for the loan scheme, which is the same for all loans, includes a risk premium in addition to the Authority's reference rate of interest for Norway, it is concluded that the small additional risk associated with the loan in this particular case is covered by the risk premium. Accordingly, also the Regional risk loan is considered not to involve any appreciable element of State aid. The aid intensity in the project is therefore 25,2%.

The above assessment of the two loans involved, which is based on the best available project-specific information, is without prejudice to any possible future assessment by the Authority of risk loan schemes operated by the SND.

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.

2.2 Application of the relevant State aid rules

The aid beneficiary is an enterprise whose activity in the shipbuilding sector, in particular its capacity to repair and maintain 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 is also appropriate to assess it under the rules on regional aid.

As regards investment aid to ship repair yards, Article 6 (1) of the Shipbuilding Directive provides that such aid may not be granted unless linked to a restructuring plan, which results in a reduction in the overall ship repair capacity of the State concerned. In this context the Authority may take into account capacity reductions carried out in the immediately preceding years.

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, specialisation, working conditions, health, safety and the environment.

As mentioned above, *ØSM* is planning to build a double slipway in concrete, including two slip-winchs with the capacity to haul ships up to 80 feet long. By also installing a new gate in the existing hall, it will be possible to haul ships into the building. Given the harsh climatic conditions in this northern area, it will be a significant step forward for the company to be able to carry out ship repairs in temperate, in-house conditions all year round. This is not only important for the company's operating conditions and efficiency, but will also make a significant contribution to improving the employees' health, safety and working conditions.

The shipbuilding-, maintenance- and repair sector in *Finnmark* is dominated by small enterprises. The only yard in the area of any considerable size is *Kværner Kimek* in *Sør-Varanger*. *ØSM*, on the other hand, conforms well with the prevailing structure in the area of small shipyards serving the local fishing fleet and small cargo vessels.

The capacity of *ØSM* within the ship repair and maintenance sector will be somewhat expanded through the planned investment. However, since 1996, three other small shipyards in the northern region of the county of *Finnmark* have been closed down. The yards concerned are *Olfo AS* in the municipalities of *Hammerfest* and *Kvalsund*, *Rypefjord Båtservice AS* in the municipality of *Hammerfest* and *Alta Båt og Mekaniske AS* in the municipality of *Alta*. All these companies were specialised in repair and maintenance of boats and ships, as is *ØSM*. The total employment in the three yards was 25 employees at the time of closure. *ØSM* has only 6 employees, and its workforce is not expected to expand substantially. The reduction in ship-repair capacity as a result of the closure of the three yards is estimated to more than outweigh the modest increase in *ØSM*'s capacity resulting from the new investments. The restructuring of the small shipyards in the area is therefore expected to contribute to a reduction in the overall ship repair capacity in Norway.

ØSM is located in the municipality of *Loppa* in the county of *Finnmark*. 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 *Loppa* belongs to Target Zone A, implying that enterprises located in that municipality are

eligible for regional investment aid. In Target Zone A, the maximum regional investment aid is 30% in net grant equivalent (NGE) terms, of the eligible costs, and a supplement of 15% (gross) is allowed for small and medium-sized enterprises (SMEs).

ØSM has currently 6 employees, an estimated turnover for 1999 of NOK 4,1 million (approx. ECU 0,5 million) and an estimated balance-sheet of NOK 4 mill. (approx. ECU 0,5 million). The company is fully owned by its managing director and thus independent from non-SMEs. Given these facts, the company qualifies as a small and medium-sized enterprise within the meaning of the SME-definition in Chapter 10 of the Authority's Procedural and Substantive Rules in the Field of State Aid. The relevant aid ceiling is therefore 30% NGE plus a supplement of 15% gross.

The project costs of NOK 2.345.000 all relate to costs in fixed assets used in the shipyard, i.e. the aid is limited to supporting expenditure directly related to the investment. As has been concluded above, the aid intensity involved corresponds to 25,2% of the eligible investment costs. Consequently, the proposed aid level is within the relevant maximum ceiling for regional investment aid.

The Authority has furthermore taken into account, that the aid project, which due to its small scale can only have marginal effects on intra-EEA trade, will help to secure employment in a remote area with few employment opportunities.

For the above reasons the conditions set out in Article 6 of the Shipbuilding Directive as well as the relevant conditions for regional aid are considered to be fulfilled. Accordingly, it is concluded that the notified aid to *Øksfjord Slipp & Mek AS* 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 *Øksfjord Slipp & Mek AS*, as notified by letters and telefaxes of 29 July 1998 (Doc. No. 98-5089-A), 10 November 1998 (Doc. No. 98-7621-A), 17 November 1998 (Doc. No. 98-7837-A) and 7 December 1998 (Doc. No. 98-8316-A).

Done at Brussels, 16 December 1998.

For the EFTA Surveillance Authority

Knut Almestad
President

Hannes Hafstein
College Member