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EFTA SURVEILLANCE
AUTHORITY

EFTA SURVEILLANCE AUTHORITY DECISION
of 28 October 2015
the six month prolongation of the refund schemes for seafarers
(Norway)

The EFTA Surveillance Authority (“the Authority”),

HAVING REGARD to:

the Agreement on the European Economic Area (“the EEA Agreement”), in particular to Articles 61,

Protocol 26 to the EEA Agreement,

the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice (“the Surveillance and Court Agreement”), in particular to Article 24,

Protocol 3 to the Surveillance and Court Agreement (“Protocol 3”), in particular to Article 4(3) of Part II,

Whereas:

I. FACTS

1 Procedure

Following pre-notification discussions, the Norwegian authorities notified a six month prolongation of the refund scheme for seafarers, pursuant to Article 1(3) of Part I of Protocol 3 by letter of 2 October 2015.¹

2 The aid measure

The Norwegian authorities have notified a six month prolongation of an existing aid scheme that has already been approved by the Authority. The scheme was initially approved from 1 January 2006 to 31 December 2015 by the Authority’s Decision No 280/06/COL,² which was subsequently amended by Decision No 412/06/COL,³ Decision No 356/08/COL,⁴ and

¹ Documents No 774992-774995.

² OJ C 143 28.6.2007 p. 5.

³ OJ C 111 17.5.2007 p. 20.

⁴ OJ L 295 12.11.2009 p. 14.

Decision No 455/08/COL.⁵ The Authority refers to those decisions for a description of the existing aid scheme.

3 National legal basis

The national legal basis of the measure is the annual fiscal budget set by the Norwegian Parliament and the Regulation on the administration of refunds for the hiring of seafarers.⁶

4 Budget

The budget for 2015 is estimated at NOK 1 802 million. On this basis the budget for the first half of 2016 could be estimated to approximately NOK 900 million.

II. ASSESSMENT

1. The presence of state aid

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 a measure constitutes state aid within the meaning of Article 61(1) of the EEA Agreement if the following conditions are cumulatively fulfilled: the measure (i) is granted by the State or through state resources; (ii) confers a selective economic advantage on the beneficiary; (iii) is liable to have an impact on trade between Contracting Parties and to distort competition.

The Authority has already concluded that the proposed measure constitutes aid.⁷ There is nothing in the current notification to alter that conclusion. The proposed measure entails a refund of income tax and social security contributions. It is therefore granted through state resources. These refunds compensate ship owners for charges which are normally borne from their budget. They therefore confer an advantage on the shipowners. The measure is selective as it is only directed towards the maritime sector and ship owners of certain vessels within this sector. The ship owners benefitting from the scheme carry out economic activities in competition with other ship owners from other EEA States. The support under the scheme strengthens the position of its beneficiaries. The support therefore is liable to have an impact on trade and to distort competition.

2. Procedural requirements

Pursuant to Article 1(3) of Part I of Protocol 3: *“the EFTA Surveillance Authority shall be informed, in sufficient time to enable it to submit its comments, of any plans to grant or alter aid. The State concerned shall not put its proposed measures into effect until the procedure has resulted in a final decision”*.

⁵ OJ C 263 16.10.2008 p. 2.

⁶ Regulation 2005-12-21-1720.

⁷ See in particular the Authority's Decision No 455/08/COL.

By submitting the notification the Norwegian authorities complied with their obligations pursuant to Article 1(3) of Part I of Protocol 3.

3. Compatibility of the aid

With its decisions referred to in part I.2 of this decision, the Authority concluded that the scheme was compatible with the functioning of the EEA Agreement pursuant to its Article 61(3)(c). In those decisions the Authority furthermore concluded that the scheme complies with the state aid guidelines on aid to maritime transport.⁸ The notified six month prolongation of the refund scheme for seafarers does nothing to alter those conclusions. The Authority therefore approves the prolongation as notified.

HAS ADOPTED THIS DECISION:

Article 1

The six month prolongation of the refund scheme for seafarers is compatible with the functioning of the EEA Agreement pursuant to its Article 61(3)(c).

Article 2

The implementation of the measure is authorised accordingly.

Article 3

This Decision is addressed to the Kingdom of Norway.

Article 4

Only the English language version of this decision is authentic.

Done in Brussels, on 28 October 2015

For the EFTA Surveillance Authority

Sven Erik Svedman
President

Helga Jónsdóttir
College Member

⁸ OJ C 103 28.4.2005 p. 24.