



EFTA SURVEILLANCE AUTHORITY

Doc.No. 00-1552 I
Dec.No. 51/00/COL
Ref. No. SAM030.00001

EFTA SURVEILLANCE AUTHORITY DECISION

OF 1 MARCH 2000

ON A NEW TRAINING AID SCHEME
("TILSKUDD TIL BEDRIFTSINTERN OPPLÆRING")
(AID NO. 00-001)

(NORWAY)

THE EFTA SURVEILLANCE AUTHORITY,

HAVING REGARD TO the Agreement on the European Economic Area¹, in particular to Articles 61 to 63 and Protocol 26 thereof,

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

HAVING REGARD TO the Authority's Guidelines³ on the application and interpretation of Articles 61 and 62 of the EEA Agreement and Article 1 of Protocol 3 to the Surveillance and Court Agreement, in particular to Chapter 18A thereof,

¹ Hereinafter referred to as the EEA Agreement.

² Hereinafter referred to as the Surveillance and Court Agreement.

³ Procedural and Substantive Rules in the Field of State Aid (State Aid Guidelines), adopted and issued by the EFTA Surveillance Authority on 19 January 1994. Published in Official Journal L 231, 03.09.1994. The Guidelines were last amended on 16 February 2000 (not yet published in the Official Journal).

WHEREAS:

I. FACTS

1. The notification

By letter of 11 January 2000 from the Mission of Norway to the European Union, received and registered on 14 January 2000 (Doc. No: 00-301 A), the Norwegian authorities notified a new training aid scheme ("Tilskudd til bedriftsintern oppl ring"). By letters dated 21 January 2000 (Doc. No: 00-553 D) and 7 February 2000 (Doc. No: 00-949 D), the EFTA Surveillance Authority acknowledged the receipt of the letter notifying this new training aid scheme and requested additional information. The Mission of Norway to the European Union submitted the requested additional information by letter of 24 February 2000, which was received and registered on the same date (Doc. No: 00-1581 A).

2. The contents of the proposed aid measure

2.1. Background and legal basis

The legal basis for the training aid scheme is Law No. 9 of 27 June 1947 concerning measures for promoting employment, in particular sections 15, 16 and 17. The Ministry of Labour and Government Affairs has the statutory responsibility for the scheme and its implementation. Budget means are provided in the State budget, Chapter 1591, post 71. This budget line covers various training measures, of which the notified scheme is one.

The scheme replaces an existing scheme for in-house training. It has an undefined duration. Grants under the scheme will be awarded by the local labour market authorities. Grants are not awarded automatically upon fulfilment of certain objective criteria. The county employment offices enjoy considerable discretion when deciding on the allocation of the above mentioned general budget appropriation for training measures. When exercising their discretionary powers, the employment offices shall take into account the particular labour market needs in the county concerned. According to the letter of 24 February 2000 from the Norwegian authorities, the estimated budget for the scheme in 2000 will be NOK 130 million.

2.2 Objectives

The training grants shall contribute to:

- prevent exclusion from the labour market in circumstances of major re-adjustments,
- maintain and strengthen the competence of employees in firms which have re-adjustment or structural problems and which are of particular significance for the labour market, or
- recruit for vacancies which are difficult to fill.

Grants under the new scheme cannot be given to firms in sectors which, in line with the Authority's State Aid Guidelines, are considered to be sensitive⁴. This limitation is explicitly pointed out in the draft regulation which was submitted with the notification. Apart from this, the scheme is sectorally neutral. All firms wanting to undertake in-house training which falls under the objectives of the measure, can consequently apply for support. Grants may be given to firms which run training programmes for own employees, or employ persons who are registered as unemployed at the public employment service and who have to go through a training programme in order to fill vacancies in the firm which otherwise would be difficult to fill. The training shall include theoretical education, and may be combined with practical training. The total duration of the training programme shall not exceed 13 weeks.

2.3 Eligible costs

Grants under the scheme are given to firms for costs related to the training programme, and for the wage costs of the participants. The calculation basis for the costs related to the training programme is fixed, with the fixed level varying according to the relevant vocational area. A total of 27 vocational areas have for this purpose been identified. The cost level applicable to each vocational area is calculated on the basis of real average monthly costs for labour market training programmes carried out since 1998. Such programmes are bought after negotiations with various suppliers of training programmes on the basis of price and quality. It is therefore the opinion of the Norwegian authorities that the prices arising from the negotiations will reflect the market prices for the courses in question. According to the notification, routines will be established for annual revision of the cost basis levels.

Grants for trainees' wage costs will be calculated on the basis of detailed documentation regarding the personnel costs for the participants undergoing the training. The calculation basis for the wage grant is limited to a sum equal to the calculation basis for the grant related to the operation of the programme.

Grants cannot be given if the employee receiving the training is required to remain with the firm for a certain time period after completion of the training programme, or has to compensate the employer if he leaves before a certain time period has elapsed. This is explicitly pointed out in the draft regulation.

The labour market authorities have established guidelines laying down requirements concerning documentation of expenses associated with the training programmes. Grants will be disbursed based on information submitted by the enterprises. Such information shall comprise i.a. the number of employees participating in the training programme, the number of hours of training given to each employee, and the hourly wage earned by each employee. It is further required that any enterprise applying for support under the scheme establishes a training committee, and that this committee after the training has been carried out submits a report stating whether the aim of the

⁴ These sectors are currently shipbuilding, synthetic fibres, the motor industry, the steel industry and transport.

training has been achieved. The reimbursement claim must be signed by both the employer and a chartered accountant.

It is a general condition for grants under the new scheme that the assisted training is a supplement to the regular training conducted by the firm. Firms must enclose a training plan with their application for aid. It will according to the notification be evident from this plan whether the training encompassed by the application would have been carried out irrespective of the public support.

Applications from large enterprises for grants for firm-specific training will be subject to a special assessment by the labour market authorities. Such enterprises must document that the carrying out of the specific training in question is dependent on the grant being given. As far as large enterprises in areas eligible for regional aid is concerned, it will according to the notification be sufficient to demonstrate that the training plays an important part in industrial readjustment. These requirements concerning the incentive effect of the grant are included in the draft regulation which was submitted with the notification.

2.4 Aid intensities

The Norwegian authorities state in their notification that the admissible aid intensities under the new scheme will be differentiated according to whether the aid is given to large or small firms, and according to whether the training is firm-specific or of a general nature, as described in Chapter 18A.4.C of the State Aid Guidelines. Large and small firms and general and specific training will be defined in accordance with Chapters 10.2⁵ and 18A.4.A, respectively, of the State Aid Guidelines. In areas falling within Article 61(3)(c) of the EEA Agreement⁶, the levels of grants can be increased by up to 5 percentage points.

Table 1 below summarises the maximum aid intensities which according to the notification will apply to grants under the new training aid scheme.

Table 1: Proposed maximum aid intensities

	Large companies		SMEs	
	Outside assisted areas	Article 61(3)(c) regions	Outside assisted areas	Article 61(3)(c) regions
Specific training	25%	30%	35%	40%
General training	50%	55%	70%	75%

⁵ Chapter 10 Aid to small and medium-sized enterprises (SMEs).

⁶ In the case of Norway this corresponds to the area which according to EFTA Surveillance Authority Decision of 16 December 1999 (Decision 327/99/COL) on the system of regional aid in Norway, is eligible for regional aid.

According to the Norwegian Directorate of Labour's administrative rules, employers shall normally not receive grants from several public offices for the same job seekers at a training course. The Norwegian authorities state in their notification that no exception from this general rule will be granted for the new scheme. As a further precautionary measure aimed at ensuring that the prerequisites with respect to the employer's own contribution are fulfilled, the county employment office shall, prior to awarding any grants, obtain information from the employer about any other support it receives from public authorities.

II. APPRECIATION

1. The presence of State aid and notification formalities

The Authority assesses training aid schemes with reference to Chapter 18A of its State Aid Guidelines. According to these guidelines, most public financing in the training sphere falls outside the scope of the competition rules of the EEA Agreement. Only aid which favours one or more firms or sectors of industry by reducing the costs they would normally have to bear when they want their employees to acquire new skills or when they afford their employees the opportunity to acquire such skills, is considered State aid in the meaning of Article 61(1) EEA.

The notified aid is funded by State resources in the meaning of Article 61(1) EEA. Due to the considerable discretion enjoyed by the local labour market authorities in awarding grants under the scheme, it is further liable to favour one or more firms or sectors more than others. As the benefiting enterprises are actually or potentially in competition with similar undertakings in Norway and other EEA states, the proposed aid may affect trade and distort competition. On these grounds, the Authority finds that the scheme constitutes State aid in the meaning of Article 61(1) EEA.

The Norwegian authorities have, by letters dated 11 January 2000 (Doc. No: 00-301 A) and 24 February 2000 (Doc. No: 00-1581 A) fulfilled their obligation under Article 1(3) of Protocol 3 to the Surveillance and Court Agreement to notify plans to grant or alter aid. Consequently, the Authority is obliged to assess whether any of the exemption clauses provided for under Article 61(2) or (3) EEA are applicable.

2. Application of the relevant State aid rules

2.1 Article 61 EEA

Where it satisfies the requirements in Article 61(1) EEA and therefore has to be examined by the EFTA Surveillance Authority, aid granted to firms for i.a. training measures may be regarded compatible with the functioning of the EEA Agreement by virtue of one of the derogations provided for in Article 61(3) EEA. The relevant derogation in question is contained in Article 61(3)(c) EEA, by virtue of which the Authority may authorise aid to facilitate the development of certain activities where it does not adversely affect trading conditions to an extent contrary to the common interest.

To qualify for the derogation in Article 61(3)(c) EEA, a State aid measure must in the first place be of the nature of an incentive: it must under no circumstances have the sole effect of continuously or periodically reducing the costs which the enterprise would normally have to bear, while otherwise leaving the status quo untouched, as in the case of operating aid, and it must be necessary in order to achieve objectives which market forces alone would not secure. The objectives pursued must be in the common interest. Lastly, the aid must be proportionate to the handicaps which have to be overcome in order to secure the socio-economic benefits deemed to be desirable on grounds of the common interest: the positive effect must outweigh the damaging effect which State aid has on competition and trade.

2.2 Objective

The Contracting Parties to the EEA Agreement have been in agreement on the importance of promoting investment in training. The main argument in favour of training aid is that it helps to correct certain imperfections in the market. This is particularly the case with vocational training as it has numerous external effects. The importance of the externalities is linked primarily to the transferability of the skills and qualifications training imparts.

Preventive policies are needed to encourage workers to improve their skills and adaptability and induce firms to invest in training their workforce. Such policies seek to prevent the least skilled from sliding into unemployment. Measures to improve the skills of a firm's workforce also help to increase that firm's competitiveness, and in so doing facilitate the development of certain activities. Training further plays an essential part in introducing new technologies and stimulating innovation and investment.

Government support for training activities may constitute a necessary incentive in the common interest of the Contracting Parties to the EEA Agreement. Accordingly, State aid to training measures may be authorised pursuant to Article 61(3)(c) EEA.

For sectors considered sensitive for which there are special rules on aid, the training aid guidelines apply only in so far as there is no conflict between the two.

The Authority finds that the objectives of the new training aid scheme are in conformity with the objectives of training aid as outlined in the State Aid Guidelines. It is in this regard noted that the regulation governing the scheme will contain an explicit provision stating that grants cannot be given to firms in sensitive sectors.

2.3 Incentive effect

To approve an aid under Article 61(3)(c) EEA, the Authority must ensure that the aid does not adversely affect trading conditions to an extent contrary to the common interest. To qualify for exemption under this provision, a State aid must therefore have an incentive character and be proportionate to the objectives of common interest it

aims to achieve. The proportionality criterion is considered to be fulfilled if the intensity of the aid does not exceed certain thresholds (see point 2.5 below).

The incentive effect is fulfilled when the aid has the effect of encouraging firms to do more in the way of training than they would normally do or spend more than they would normally spend on training. This effect will have to be demonstrated if aid for specific training is awarded to big enterprises outside areas assisted under Article 61(3)(a) or (c) EEA. In all other cases the incentive effect will be presumed.

The EFTA Surveillance Authority finds that the new training aid scheme fulfils the criteria set out in the State Aid Guidelines regarding the incentive effect of the aid.

2.4 Eligible costs

According to Chapter 18A.4.B of the State Aid Guidelines, eligible costs in the context of a training aid project are:

1. trainer's personnel costs;
2. trainer's and trainees' travel expenses;
3. other current expenses (materials, supplies, etc.);
4. depreciation of tools and equipment, to the extent that they are used exclusively for the training scheme in question;
5. cost of guidance and counselling services with regard to the training project;
6. trainees' personnel costs up to the amount of the total of the other eligible costs referred to in (1) to (5).

The State Aid Guidelines state that the eligible costs must be supported by documentary evidence, transparent and itemised.

Trainees' personnel costs will be documented in accordance with the above requirement. But according to the notification, the costs referred to in points (1) to (5) above will not be itemised under the new training aid scheme. The Norwegian authorities instead propose to base this part of the grant on a vocationally differentiated and regularly updated list of fixed cost levels based on real average monthly costs for labour market training programmes carried out since 1998. The Authority is of the opinion that the fixed cost levels resulting from this procedure in a fair manner reflect the market prices for training programmes. The EFTA Surveillance Authority on these grounds finds that the new training aid scheme fulfils the criteria set out in the State Aid Guidelines regarding eligible costs.

2.5 Aid intensities

The aid ceilings proposed in the notification from the Norwegian authorities, cf. Table 1 under point I. 2.4 above, are identical with the aid ceilings set out in the State Aid Guidelines.

The admissible aid intensities depend on the type of training, the size of the firm and the location of the firm receiving the aid. They are higher for general than for specific training measures⁷. They are further higher for small and medium-sized firms than for large enterprises, and higher for firms in 61(3)(c) EEA areas than for centrally located firms. The aid ceiling set for firm-specific training in large firms within Article 61(3)(c) EEA areas is applicable only when the training and re-training of workers plays an important part in industrial adjustment.

Training aid measures may be cumulated only within the limits of the intensities referred to above.

The EFTA Surveillance Authority finds that the proposed maximum aid intensities and cumulation rules regarding the new training aid scheme are in accordance with the corresponding provisions of the State Aid Guidelines.

3. Conclusion

The criteria and the intensities foreseen for the new training aid scheme reflect the requirements set out in the State Aid Guidelines (Chapter 18A) for aid under Article 61(3)(c) of the EEA Agreement. Aid may therefore be justified on grounds that it will facilitate the development of certain economic activities without adversely affecting trading conditions between the Contracting Parties to the EEA Agreement to an extent contrary to the common interest. It is therefore concluded that the new training aid scheme ("Tilskudd til bedriftsintern opplæring") qualifies for exemption under Article 61(3)(c) of the EEA Agreement.

HAS ADOPTED THIS DECISION:

1. The EFTA Surveillance Authority has decided not to raise objections to the proposed new training aid scheme ("Tilskudd til bedriftsintern opplæring"), as notified by the Norwegian authorities by letters dated 11 January 2000 (Doc. No: 00-301 A) and 24 February 2000 (Doc. No: 00-1581 A).
2. The Norwegian authorities are obliged to submit a separate, simplified annual report to the EFTA Surveillance Authority on the application of the new training aid scheme (in accordance with Chapter 32 and Annex IV of the State Aid Guidelines).

⁷ Specific training involves theoretical and practical tuition directly and principally applicable to the employee's present or future position in the assisted firm. It is linked to a specific activity of the firm. Part of the training is normally given at the employee's work place. Its transferability to other firms or other fields of work is very limited. General training, on the other hand, includes tuition which is not applicable only or principally to the employee's present or future position in the assisted firm. It is linked to the overall activities of the firm and provides qualifications which are largely transferable to other firms or other fields of work.

Done at Brussels, 1 March 2000

For the EFTA Surveillance Authority

Knut Almestad
President

Bernd Hammermann
College Member