


EFTA SURVEILLANCE AUTHORITY

Doc. No. 02-2090-I
Dec. No. 57/02/COL
Ref. No. SAM 030.02.001

EFTA SURVEILLANCE AUTHORITY DECISION
of 22 March 2002
regarding regional investment aid to the shipyard *West Contractors 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 Regulation (EC) No. 1540/98)²,

HAVING REGARD TO the Agreement between the EFTA States on the establishment of a Surveillance Authority and a Court of Justice³, in particular Article 24 and Article 1 of Protocol 3 thereof,

HAVING REGARD TO the Procedural and Substantive Rules in the Field of State Aid⁴, and in particular Chapter 25 thereof,

WHEREAS:

I. FACTS

1. *The notification*

By letter from the Ministry of Trade and Industry dated 28 January 2002, received and registered by the Authority on 1 February 2002 (Doc. No. 02-910-A), the Norwegian Government notified the Authority, pursuant to Article 10 (2) (b) of the Shipbuilding Regulation, of plans by the Norwegian authorities to award regional investment aid to

¹ Hereinafter referred to as the EEA Agreement.

² Hereinafter referred to as the Shipbuilding Regulation.

³ Hereinafter referred to as the Surveillance and Court Agreement.

⁴ Guidelines 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, adopted and issued by the EFTA Surveillance Authority on 19 January 1994, published in OJ 1994 L 231, EEA Supplements 03.09.94 No. 32, last amended by the Authority's Decision of 28 November 2001, Dec. No. 370/01/COL, not yet published, hereinafter referred to as the "Authority's State Aid Guidelines".

the shipyard *West Contractors AS*. By letter dated 11 February 2002 (Doc. No. 02-1109-D), the Authority acknowledged receipt of the notification.

Additional information was provided by the Norwegian authorities by e-mail dated 14 March 2002, received and registered on that same day (Doc. No. 02-2014-A).

2. *Contents of the proposed aid*

Introduction

The Norwegian authorities have notified the EFTA Surveillance Authority of the Norwegian State's Industrial and Regional Development Fund's (SND) decision to give a grant amounting to NOK 1.5 million (approximately € 194 000) to the shipyard *West Contractors AS* for the purchase of a new tower crane to be used for rig repair. Additional financing will be provided by SND in the form of a so-called low risk loan amounting to NOK 6.9 million (approx. € 890 000). The total budget for the project is NOK 28 million (approx. € 3.6 million).

Aid Beneficiary: West Contractors AS

West Contractors AS is a shipyard engaged in repair of floating offshore rigs, ship repair and shipbuilding (exceeding 100 GRT). It is located in the county of Hordaland. It has 160 employees and its turnover in 2000 amounted to NOK 154 million (approx. € 20 million).

Project Description and Aid Measures

As stated above, the planned project consists of the purchase of a new tower crane, with a height of 109 meters and a reach capacity of 82 meters. The size of this new, large tower crane is such that the crane can swing over an entire offshore rig, contrary to the present cranes that cover only small parts of a rig. The investment will therefore increase the company's efficiency as regards rig repairs.

The total estimated investment costs amount to NOK 28 million (approx. € 3.6 million). The breakdown of the costs, as well as their planned financing, are as follows:

Investment costs		Financing	
Investment	Costs (in NOK)	Means of financing	NOK
Purchase of tower crane	9.000.000	Bank Loan	6.900.000
Extension of tower crane	4.000.000	SND Low Risk Loan	6.900.000
Installation of tower crane	6.000.000	SND Grant	1.500.000
Tower crane rails/pillars	3.000.000	Equity	12.700.000

Technical improvements	1.000.000		
Electrical system	1.500.000		
Contingencies	2.500.000		
Building loan interest	1.000.000		
TOTAL	28.000.000	TOTAL	28.000.000

The Norwegian Government informed the Authority that in connection with the investment in a new tower crane, *West Contractors AS* was planning to build a new quay structure as well as mooring equipment for rigs. The financing of this investment, which amounts to, in total, NOK 16.3 million, includes an SND low risk loan of NOK 4.1 million.

The grant provided by SND is awarded under the “Regional Development Grant” Scheme. The scheme, which was originally approved by the Authority in 1998 (State aid No. SAM 030.98.008, Decision of 16 December 1998, Dec. No. 375/98/COL), was amended in the course of 2000, with the objective of extending the scope of application and of providing support for regional investment and R&D activities in accordance with the Shipbuilding Regulation. These amendments were approved by the Authority by Decision of 5 July 2000 (State aid No. SAM 030.00.006, Dec. No. 131/00/COL).

The low risk loan provided by SND under existing schemes, has never been formally approved by the Authority. In this respect, the Norwegian Government informed the Authority that this loan constituted a normal bank loan based on a commercial interest rate set at 8,8% and with 100% security through mortgage in real estate, vehicles, machines and equipment which lies safely within the value of the security objects. The risk of default was assessed as being 0%. The loan has to be paid back in instalments twice yearly for a period of 12 years, without any grace period.

II. APPRECIATION

1. *The presence of State aid and notification formalities*

The notified SND grant is being funded by State resources and will favour certain undertakings in the meaning of Article 61(1) of the EEA Agreement. The beneficiary of the grant is actually or potentially in competition with similar undertakings in Norway and other EEA States. As the proposed aid distorts or threatens to distort competition and to affect trade within the EEA, the proposed SND grant of NOK 1.5 million (approx. € 194 000) constitutes State aid within the meaning of Article 61(1) of the EEA Agreement.

The SND low risk loan is provided by SND and thus through State resources. In line with the Authority’s practice in similar cases (cf. Authority’s Decision of 11 April 2001, Dec. No. 110/01/COL, State aid case SAM 030.00.009 – *Regional Investment aid to Hammerfest Slipphall AS*), the question whether and to what extent the SND

low risk loan of NOK 6.9 million (approx. € 890 000) constitutes a financial advantage to the aid beneficiary, will in the present case be assessed in light of the terms of the loan and the available information on the risks involved.

According to the information submitted by the Norwegian authorities, the SND low risk loan is secured 100%. The conditions of the loan are those of a commercial bank loan with an interest rate of 8.8% p.a. and a 100% security. Furthermore, the Norwegian authorities have stated that SND has assessed the risks of default regarding this loan as being null.

Given that the interest rate for the low risk loan of 8.8 % is above the reference rate of interest applicable for Norway as from 1 January 2002 (i.e. 6,32%), and further given that the risks involved in this kind of loan have been assessed to be null, the Authority concludes that the low risk loan does not contain any aid element.

By submitting a notification for the planned grant, the Norwegian authorities have complied with the specific notification requirement for aid to shipyards set out in Article 10 (b)(2) of the Shipbuilding Regulation. The Authority can therefore conclude that the Norwegian Government has respected their obligations pursuant to Article 1 (3) of Protocol 3 to the Surveillance and Court Agreement.

2. Application of the relevant State aid rules

According to Article 2 (1) of the Shipbuilding Regulation, “*[a]id granted, whether directly or indirectly, for shipbuilding, ship repair and ship conversion, financed by Member States or their regional or local authorities or through State resources in any form whatsoever, may be considered compatible with the common market only if it complies with the provisions of this Regulation.*”

The aid beneficiary is a company engaged in the repair and maintenance of ships exceeding 100 GRT (NACE 35.111), an activity that is covered by the Shipbuilding Regulation (cf. Article 1 of the Shipbuilding Regulation). As the aid has the character of regional investment aid, it must be assessed under Article 7 of the Shipbuilding Regulation. Finally, the aid must also be assessed under the rules contained in Chapter 25 of the Authority's State Aid Guidelines on national regional aid.

Article 7 of the Shipbuilding Regulation, as incorporated into the EEA Agreement, stipulates: “*Aid granted for investment in upgrading or modernising existing yards, not linked to a financial restructuring of the yard(s) concerned, with the objective of improving the productivity of existing installations, may be deemed compatible with the functioning of the EEA Agreement provided that:*

- in regions meeting the criteria for the option contained in Article 61 (3)(c) and complying with the map approved by the competent surveillance authority as defined in Article 62 of the EEA Agreement for each EC Member State or EFTA State for the grant of regional aid, the intensity of the aid does not exceed 12.5% or the applicable regional aid ceiling, whichever is lower”.

Objective of the aid

Based on the information submitted by the Norwegian Government, the Authority can conclude that the aid project in question can be regarded as an investment in upgrading and modernising of the existing yard with the objective of improving the productivity of existing installations. The condition regarding the objective of the aid as set out in Article 7 of the Shipbuilding Regulation is thus considered to be fulfilled.

Geographical conditions

West Contractor AS is located in the county of Hordaland, in the Ølen community. According to the map of assisted areas in Norway, which was authorised by the EFTA Surveillance Authority Decision No. 327/COL of 16 December 1999, the Ølen community in the county of Hordaland falls within an Article 61 (3)(c)-region (Target Zone C). *West Contractor AS* is therefore eligible for regional investment aid, and the geographical conditions in Article 7 of the Shipbuilding Regulation are thus fulfilled.

Eligible expenditure

Chapter 25.4(6) of the Authority's Guidelines states that: "*Initial investment means an investment in fixed capital relating to the setting-up of a new establishment, the extension of an existing establishment, or the starting-up of an activity involving a fundamental change in the product or production process of an existing establishment (through rationalisation, diversification or modernisation).*" Furthermore, Chapter 25.4(8) of the Guidelines states that: "*Aid for initial investment is calculated as a percentage of the investment's value. This value is established on the basis of a uniform set of items of expenditure (standard base) corresponding to the following elements of the investment: land, buildings and plant/machinery.*"

The Authority considers that the investment in the new tower crane falls within the category of initial investment. With reference to the table above, specifying the various types of the project costs, the Authority considers that they all relate to costs in "*buildings and plant/machinery*" and that the aid is thus limited to support eligible expenditure in accordance with Article 7 of the Shipbuilding Regulation and the Guidelines on national regional aid. The eligible investment costs are therefore NOK 28 million.

Aid intensity

As stated above, *West Contractor AS* is located in the county of Hordaland, in the Ølen community. According to the map of assisted areas in Norway, the Ølen community in the county of Hordaland falls within an Article 61 (3)(c)-region (Target Zone C), with a permissible general aid ceiling of 10 % NGE (Net Grant Equivalent), plus a supplement of 10 % (gross) for small and medium sized enterprises (SMEs). Since the aid ceiling which is applicable for SMEs in Target Zone C is above the

regional ceiling⁵, the lower ceiling of 12.5% applies in the present case, pursuant to Article 7 of the Shipbuilding Regulation.

To contribute to the financing of the eligible investment costs, SND offered an investment grant of NOK 1.5 million, which corresponds to an aid intensity of 5.4 % of the eligible investment costs (i.e. NOK 28 million). The other means of financing (i.e. the SND low risk loan) are considered to be free of aid. Consequently, the aid level is within the relevant maximum aid ceiling for regional investment aid.

Conclusions

For the above reasons the conditions set out in Article 7 of the Shipbuilding Regulation and Chapter 25 of the Authority's State Aid Guidelines are considered to be fulfilled.

With reference to the above considerations, it is concluded that the proposed aid to *West Contractors AS* may be considered compatible with the functioning of the EEA Agreement.

HAS ADOPTED THIS DECISION:

1. The EFTA Surveillance Authority has decided not to raise objections to the proposed regional investment aid amounting to NOK 1.5 million to the shipyard *West Contractors AS*, as notified by the Norwegian authorities.
2. The Norwegian Government is reminded of its obligation to submit to the EFTA Surveillance Authority the relevant reports referred to in Article 11 of the Shipbuilding Regulation.

Done at Brussels, 22 March 2002.

For the EFTA Surveillance Authority

Einar M. Bull
President

Hannes Hafstein
College Member

⁵ According to the information submitted by the Norwegian authorities, it would appear that the aid beneficiary qualifies as an SME in accordance with Chapter 10 of the Authority's State Aid Guidelines and would therefore be subject to a maximum aid ceiling of 17.2% net.