



EFTA SURVEILLANCE AUTHORITY

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EFTA SURVEILLANCE AUTHORITY DECISION

OF 3 JULY 1996

ON REGIONAL INVESTMENT AID TO THE SHIP REPAIR YARD
A/S LOFOTEN SVEISEINDUSTRI

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

WHEREAS:

I. FACIS

The notification

By telefax of 21 March 1996 (Doc. no. 96-1544-A) the Norwegian authorities notified, pursuant to Article 11 of the Shipbuilding Directive, their plans to

¹ Hereinafter referred to as the EEA Agreement.

² This Council Directive, as adapted for the purpose of the EEA Agreement by decisions of the EEA Joint Committee No 21 of 5 April 1995 and No 16/96 of 4 March 1996, will hereinafter be referred to as the Shipbuilding Directive.

³ Hereinafter referred to as the Surveillance and Court Agreement.

award aid in support of certain investments by the ship repair company A/S Lofoten Sveiseindustri.

By letter of 29 March 1996 (Doc. No. 96-1732-D) the EFTA Surveillance Authority requested certain additional information on the aid proposal, to which the Norwegian authorities responded by telefax of 22 May 1996 (Doc. no. 96-2661-A).

The aid project

The project is a part of A/S Lofoten Sveiseindustri's planned gradual upgrading of its facilities. The investment expenditure, which now is to be supported by aid, covers i.a. investment in a 30 m quay-pier, by which the slipway operation will be simplified and made safer. An equipment will be installed for air ventilation and reduction of fumes in the workshop. Finally, the investment covers a new computer system.

Total project costs amount to NOK 900.000. Of these, NOK 100.000, which relate to dismantling of obsolete facilities, are not considered eligible for aid. Hence, the investment costs considered eligible for aid under the scheme to be applied amount to NOK 800.000. It is proposed to award a regional investment aid grant of NOK 160.000 in support of these investments.

The notification states that the purpose of the planned investment is not to increase the capacity of the ship repair yard, but to undertake a modernisation or restructuring of the company, in order to improve working conditions and the safety for the employees.

The planned financing of the project is as follows:

Regional investment grant	NOK 160.000
Risk loan from SND	NOK 150.000
Loan from Den Norske Bank	NOK 250.000
Own financing	NOK 340.000

Total	NOK 900.000

According to SND's evaluation, the planned risk loan is considered, after taking account of other mortgage loans with higher priority, to exceed the realisation value of the available collateral. The risk loan is therefore considered to be poorly secured.

The aid instruments to be applied

The aid is to be provided under SND's Regional investment grant scheme, of which the Authority has been informed as a State aid scheme existing at the time of entry into force of the EEA Agreement (State Aid No. 93-143)

As for the risk loan, the intention is to apply SND's Regional risk loan scheme, which also was an existing state aid scheme when the EEA Agreement entered into force (State Aid No. 93-145).

A/S Lofoten Sveiseindustri

A/S Lofoten Sveiseindustri (LSI) is a company located in Lofoten, in the municipality of Vågan, Nordland county. The activity of LSI is divided between shipbuilding, rebuilding and maintenance of smaller fishing boats, and delivery of steel constructions.

LSI's main market is maintenance and repair of fishing boats between 50-100 GT, but the company has a dock capacity that enables it to perform maintenance work also on ships larger than 100 GT. Repair and maintenance work on ships of above 100 GT is, however, estimated to less than 5% of the total activity of the company. As for newbuilding, the company has only capacity to build boats below 25 GT. Currently the shipyard does not build new boats, and it has no plans to do so in the future. The notification states that according to information given by LSI, the current capacity of the yard, in terms of the number and size of ships it can repair, will be unaffected by the planned investment. The yard's physical capacity is limited by the size of its slipway, and this will not be affected by the planned investment.

As for other steel constructions, the main products are barges for fish farms and constructions for the building sector. These products, which account for approx. 30% of LSI's turn-over, are sold on the local market in Lofoten.

During the period 1978-88 LSI had on average about 30 employees. Its workforce has since reduced, and it currently has 19 employees. The company's turn-over in 1995 was about NOK 10 million. Shares in the company are owned by individuals, i.e. its management and employees, and not by other companies.

According to information used by the aid granting authority when evaluating the application for the aid, the company's financial position has in recent years been weak. After making losses in 1989 and 1990, a financial restructuring took place in late 1991, amounting to NOK 2,5 million. The share capital was written off and new equity of NOK 0.87 million was obtained, where the SND participated by NOK 0.27 million. The company again suffered losses in 1992,

which lead to its net capital becoming negative. In 1993 and 1994 LSI's operating results improved, although its net capital remained negative. Provisional accounts for 1995 indicate considerably improved results, with expected operating profit of NOK 0.6 million. The notification states that no information is available on how the proposed aid will affect the long term viability of the company.

The Norwegian ship repair industry

According to the Norwegian authorities, no information is available on the capacity in the ship repair industry in Norway. The information on employment in this industry is also quite limited. According to statistics by the Central Bureau of Statistics (SSB), 11.500 persons were employed in 1993 in the sector defined as "building and repairing of ships and boats".

The Ministry of Industry and Energy also collects certain information about the shipbuilding industry. The primary focus is on newbuilding of ships. However, some information on the number of persons employed in conversion and repair of ships is also collected. This data is however subject to a certain degree of uncertainty, as the Ministry's survey does not cover all yards. As the shipyards' degree of specialisation is not particularly high, it is in practice also difficult for them to split their workforce according to which activity they take part in. The following data should therefore be interpreted cautiously. According to the survey by the Ministry of Industry and Energy, 1.900 persons were employed on 31 December 1995 in conversion and repair of ships. At the same time in 1994 the Ministry registered 2.300 employees in this type of work.

II. APPRECIATION

In the first instance the aid falls to be assessed as regional investment aid. In that context it must be examined whether the aid is compatible with the limitations on regional aid defined in the map of assisted areas in Norway.

A/S Lofoten Sveiseindustri (LSI) is located in Lofoten, in the municipality of Vågan, Nordland county. According to the map of assisted areas in Norway, which was authorised by the EFTA Surveillance Authority Decision No. 157/94/COL of 16 November 1994, Lofoten is eligible for regional investment aid and belongs to Target zone B. In Target zone B, the maximum regional investment aid is 25%, in net grant equivalent (NGE) terms, of the eligible costs, and a top-up of 5% gross is allowed for SMEs.

The above information about the company's size in terms of employment and turn-over and its independence from other companies confirm that it qualifies as a small and medium-sized enterprise (SME) as defined in Chapter 10 of the State Aid Guidelines. The relevant aid ceiling is therefore 25% NGE plus a top-up of 5% gross.

By virtue of implementing regulations for the regional aid schemes in Norway, the aid ceilings stipulated in the map of assisted areas are applicable as overall cumulative ceilings for regional investment aid from all public sources, i.e. the ceilings of the map cover all aid schemes, both new and existing at the time of entry into force of the EEA Agreement, for regional investment aid and all individual awards of regional aid to enterprises within the areas eligible for regional aid.

Of the total project costs of NOK 900.000, investment costs amounting to NOK 800.000 are eligible for aid under the SND Regional investment grant scheme. Under this scheme it is proposed to award a grant of NOK 160.000, which corresponds to an aid intensity of 20% net. The proposed grant is therefore within the applicable aid ceiling.

However, it is necessary to consider that the Norwegian authorities also plan to participate in the financing of the project by means of a risk loan from the SND amounting to NOK 150.000, which corresponds to 18,75% of the eligible investment costs. After taking account of other mortgage loans with higher priority, the SND considers this loan to exceed the realisation value of the available collateral. When also considering the weak financial position of the company, whose net capital according to the latest confirmed annual accounts (for 1994) was negative by approx. NOK 1 million, the loan must be regarded as involving a considerable risk to the lender.

According to the SND Regional risk loan scheme the credit terms to a certain degree take account of the risk involved. Thus, the loans carry an interest rate of 9% p.a., which in view of the current reference rate of interest for Norway of 7% can be considered to involve a risk premium of 2% p.a. According to information from the Norwegian authorities, loss funds corresponding to 30% of the total value of loans granted each year are disbursed over the State Budget to cover losses under the SND risk loan schemes. On this basis, and in the absence of any explicit evaluation of the risk factor in this particular case, it is concluded that the aid element in the risk loan to be granted to LSI corresponds to 30% of the value of the loan or NOK 45.000, which corresponds to 5,6% of the eligible investment costs. The cumulated aid intensity of the Regional investment grant and the Regional risk loan would therefore be 25,6% net. Given that the company is eligible for an SME top-up of 5% (gross) on the applicable regional aid ceiling of 25% (net), it is concluded that the cumulated aid intensity is within the limit of the map of assisted areas.

The company has capacity to perform ship repair work of metal hulled vessels 100 GT or above, and performs such work, although apparently to a very limited degree. The aid therefore also falls to be examined under the Shipbuilding Directive, in particular Article 6 of that directive.

As regards investment aid to ship repair yards, Article 6(1) of the Shipbuilding Directive provides that such aid may not be granted unless it is linked to a restructuring plan which results in a reduction in the overall ship repair capacity in the EEA country concerned. In this context the EFTA Surveillance 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, specialization, working conditions, health, safety and the environment.

As concerns the ship repair yard under consideration, it is evident that due to its modest size, its impact on intra-EEA trade and competition in ship repair is minimal and most likely negligible. According to the notification the investment concerned will not affect the shipyard's capacity and hence not the overall capacity of the Norwegian ship repair industry. Furthermore, account can be taken of the fact that at least when measured in terms of its workforce, the yard's capacity has been reduced in recent years. As mentioned above the Norwegian authorities do not possess of any information on the physical capacity of the Norwegian ship repair industry, and the little information which there is available appears to indicate that overall ship repair capacity, when measured in terms of employment, has been on the decrease in the last few years.

It is clear that the aid to be granted is limited to support expenditure directly related to the investment and would thus not spill over as operating aid.

As to the question whether the proposed amount and intensity of the aid is proportional, it is firstly observed that LSI has for several years been in poor financial condition. However, provisional data for 1995 show a clear improvement, but further consolidation of the company's finances continues to be needed. According to the Norwegian authorities, LSI clearly has a need for upgrading its facilities, and they consider the investment to be supported by aid to be necessary for the company to remain competitive. It is noted that the investment now to be undertaken is considered to be prudent and profitable, independent of whether plans for further investments will be carried out. Aid for this project, which the Norwegian authorities regard as a restructuring project, is accordingly considered to contribute to the company's future viability and to safeguarding employment in a remote region with scarce employment opportunities and limited development potential. For these reasons the amount and intensity of the aid is considered to be justified by the extent of the restructuring involved.

It is finally noted that the aid will contribute to achieving increased safety in the slipway operation and that the investment in a new ventilation system is likely to result in improved working conditions for the employees.

The conditions set out in Article 6 of the Shipbuilding Directive are therefore considered to be fulfilled. As concluded above, the aid also meets the general conditions for regional aid, as embodied in the map of assisted areas for Norway.

It shall be noted that in absolute terms the overall aid amount is rather insignificant, or NOK 205.000, which corresponds to approx. ECU 25.000. Although not applicable in the case of aid to the shipbuilding sector, it can be recalled, for the sake of comparison, that according to the *de minimis* rule (cf. Chapter 12 of the State Aid Guidelines), individual awards of aid to any one firm of up to ECU 100.000, over a three-year period is considered not to have an appreciable effect on trade and competition between the Contracting Parties.

For the reasons stated above it is concluded that the aid 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. Without prejudice to possible future review of the SND Regional risk loan scheme (existing State Aid No. 93-145), the EFTA Surveillance Authority has decided not to raise objections to the proposed regional investment aid to the ship repair yard A/S Lofoten Sveiseindustri, as notified by the Norwegian authorities by telefaxes of 21 March 1996 (Doc. no. 96-1544-A) and 22 May 1996 (Doc. no. 96-2661-A).

Done at Brussels, 3 July 1996.

For the EFTA Surveillance Authority

Knut Almestad
President

Björn Friðfinnsson
College Member