

Event.No: 312149  
Case.No: 57324  
Dec.No: 98/05/COL

EFTA SURVEILLANCE AUTHORITY DECISION

OF 13 APRIL 2005

ON AMENDMENTS TO THE EXISTING “REGIONAL DEVELOPMENT  
GRANT” SCHEME

(NORWAY)

THE EFTA SURVEILLANCE AUTHORITY,

HAVING REGARD TO the Agreement on the European Economic Area<sup>1</sup>, 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 Justice<sup>2</sup>, in particular to Article 24 and Article 1 in Part I of Protocol 3 thereof,

HAVING REGARD TO the Authority’s Guidelines<sup>3</sup> on the application and interpretation of Articles 61 and 62 of the EEA Agreement, in particular Chapter 24B thereof,

RECALLING the Authority’s Decision No 375/98/COL of 16 December 1998 deciding not to raise objections to the merger and amendments of two existing schemes into the new “Regional Development Grant” scheme, and the Authority’s Decision No 131/00/COL of 5 July 2000 deciding not to raise objections to the amendments of the “Regional Development Grant” scheme,

WHEREAS:

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<sup>1</sup> Hereinafter referred to as the EEA Agreement.

<sup>2</sup> Hereinafter referred to as the Surveillance and Court Agreement.

<sup>3</sup> 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 OJ L 231, 03.09.1994. The Guidelines were last amended on 15 December 2004 (Dec. No: 371/04/COL).

## I. FACTS

### 1. Notification

By letter of 14 February 2005 from the Mission of Norway to the European Union, received and registered on 15 February 2005 (Event No: 308973), the Norwegian authorities notified, pursuant to Article 1(3) in Part I of Protocol 3 to the Surveillance and Court Agreement, amendments to the existing “Regional Development Grant” aid scheme.

By letter dated 3 March 2005 (Event No: 312004), the Authority acknowledged the receipt of the notification.

### 2. The existing aid scheme and previous amendments

The Regional Development Grant scheme is operated by Innovation Norway<sup>4</sup> on behalf of the Ministry of Trade and Industry. The objectives of the scheme are to grant regional aid and aid to SMEs. The Regional Development Grant scheme is part of a scheme called “Innovation-Projects”, which also includes “Project Development Grants” and “Risk Loan” schemes. Under the Innovation-Projects scheme, Innovation Norway offers financing of development projects, in order to promote innovation in trade and industry. The legal basis of the scheme is the Act of 19 December 2003 No 130 (Lov om Innovasjon Norge), St.prp. nr 1 (2004-2005) kap. 2421, post 50 and ”Regelverk for forvaltningen av tilskudd, lån og garantier knyttet til fondsmidler som bevilges over kap. 2421, post 50 Innovasjon – prosjekter, fond”. The total funding of the Innovation-Projects scheme is NOK 85 million (approximately EUR 10,3 million).

The Regional Development Grant scheme was first notified to the Authority by letter of 3 June 1998 from the Mission of Norway to the European Union on plans to amend and merge two existing aid schemes, Ex Aid No 93-143, “Regional Investment Grants”, and Ex Aid No 93-153, “Grants for Development of Business and Industry”, into one scheme; “Regional Development Grants”. By its Decision No 375/98/COL of 16 December 1998 the Authority decided not to raise objections to the Regional Development Grants scheme.

By letter of 27 April 2000 from the Mission of Norway to the European Union, the Norwegian authorities notified amendments to the Regional Development Grants scheme whereby aid to shipbuilding and training was included in the scheme. The Authority in its Decision No 131/00/COL of 5 July 2000 decided not to raise objections to the amendments to the scheme.

### 3. Description of the notified proposed amendments

The notified amendments to the Regional Development Grant scheme only concern the shipbuilding industry.

After the expiry of Council Regulation (EC) No 1540/98 of 29 June 1998<sup>5</sup>, aid to shipbuilding finds its legal basis in the new Framework on State aid to Shipbuilding, which is incorporated in the Authority’s State Aid Guidelines, Chapter 24B on State Aid

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<sup>4</sup> Innovation Norway is a state owned company with the objective of promoting industrial development in Norway, cf. Act of 19 December 2003 No 130 (“Lov om Innovasjon Norge”).

<sup>5</sup> Published in OJ L 202, 18.07.1998, pages 1-10.

to Shipbuilding. To take account of this change, the conditions for aid to shipbuilding under the Regional Development Grant scheme are proposed to be amended by reference to the new Framework.

Furthermore, the Norwegian authorities have notified an amendment whereby the percentage of state support for expenditure in investments needed to fund innovative aspects of projects will be increased from 10% to 20%. By this amendment, the Norwegian authorities intend to implement a corresponding amendment following from the adoption of the new Framework on State aid to Shipbuilding.

According to the notification, no new programmes or funds will be established as a consequence of the amendments to the Regional Development Grant scheme, nor will the change have any budgetary consequences.

## II. APPRECIATION

### 1. The presence of aid and notification formalities

The notified aid is being funded by State resources and will favour certain undertakings. The benefiting enterprises are 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 European Economic Area, the scheme therefore constitutes State aid within the meaning of Article 61(1) of the EEA Agreement.

The Norwegian authorities have, by letter of 14 February 2005, received and registered by the Authority on 15 February 2005 (Event No: 308973), fulfilled their obligation under Article 1(3) in Part I of Protocol 3 to the Surveillance and Court Agreement to notify any plans to grant or alter State aid.

### 2. Compatibility

As stated above, the change to the Regional Development Grant scheme is a consequence of the expiry of Council Regulation (EC) No 1540/98 and of the adoption of the new Framework on State aid to Shipbuilding<sup>6</sup>.

Until 31 December 2003, aid granted to the shipbuilding industry under the Regional Development Grant scheme had to comply with the criteria stemming from Council Regulation (EC) No 1540/98. Following the expiry of the Council Regulation, the Framework on State aid to Shipbuilding provides for new rules for this sector, whereby the treatment of aid to the shipbuilding industry to a large extent is harmonised with the treatment of aid to other sectors. In particular, already established rules on training aid, aid to SMEs, employment aid and “de minimis” aid are now applicable to the shipbuilding sector. Otherwise, the rules on aid to research, development and innovation in Chapter 24B of the Authority’s State Aid Guidelines in essence correspond to the equivalent provisions of the former Council Regulation (EC) No 1540/98.

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<sup>6</sup> Incorporated in the Authority’s State Aid Guidelines, Chapter 24B on State aid to Shipbuilding.

The first amendment mentioned above thus only corrects the reference to the conditions for granting State aid to the shipbuilding industry.

The Norwegian authorities have notified one further amendment to the Regional Development Grant scheme, as the percentage of state support for expenditure in investments needed to fund innovative aspects of projects will be increased from 10% to 20%.

Point 3.3.1 in Chapter 24B of the Authority's State Aid Guidelines concerns aid to research, development and innovation. The second paragraph of point 3.3.1 states that "*[a]id granted for innovation in existing shipbuilding, ship repair or ship conversion yards may be deemed compatible with the functioning of the EEA Agreement up to a maximum intensity of 20 % gross*", provided that certain conditions are fulfilled. The first condition is that the aid must relate to industrial application of innovative products and processes which carry a risk of technological or industrial failure. Secondly, the aid must be limited to supporting expenditure on investments, design, engineering and testing activities directly and exclusively related to the innovative part of the project. A minimum of additional production costs, strictly necessary to validate the technological innovation, can exceptionally be accepted.

The second paragraph in point 3.3.1 in Chapter 24B of the Authority's State Aid Guidelines corresponds to a large extent to the former Article 6 of Council Regulation (EC) No 1540/98. However, the maximum aid intensity has been increased from 10% in Article 6 of Council Regulation (EC) No 1540/98 to now 20% in point 3.3.1 in Chapter 24B of the State Aid Guidelines. The Norwegian authorities have notified that the maximum aid intensity under the Regional Development Grant scheme will be increased accordingly. Consequently, the increase of the maximum aid intensity in the Regional Development Grant scheme reflects the alteration regarding aid to research, development and innovation in the new legal framework.

This amendment to the Regional Development Grant scheme is thus in line with Chapter 24B of the State Aid Guidelines.

### **3. Conclusion**

For the reasons given above, the Authority considers the amendments to the existing Regional Development Grant scheme to be State aid compatible with the EEA Agreement, according to Article 61(3)(c) of the EEA Agreement in conjunction with Chapter 24B of the Authority's State Aid Guidelines.

**HAS ADOPTED THIS DECISION:**

1. The Authority has decided not to raise objections to the amendments to the Regional Development Grant scheme, with regard to the shipbuilding industry, as notified by the Norwegian authorities by letter dated 14 February 2005 (Event No: 308973).
2. This decision is addressed to Norway.
3. This decision is authentic in the English language.

Done at Brussels, 13 April 2005

For the EFTA Surveillance Authority

Hannes Hafstein  
President

Einar M. Bull  
College Member