

## PART II: PROCEDURAL RULES

### Guidelines on a simplified procedure for treatment of certain types of state aid<sup>1</sup>

#### 1. Introduction

- (1) These Guidelines set out a simplified procedure under which the Authority intends, in close cooperation with the EFTA State concerned, to examine within an accelerated time frame certain types of state support measures which only require the Authority to verify that the measure is in accordance with existing rules and practices without exercising any discretionary powers. The Authority's experience gained in applying Article 61 of the EEA Agreement and the regulations, frameworks, guidelines and notices adopted on the basis of Article 61 of the EEA Agreement<sup>2</sup>, has shown that certain categories of notified aid are normally approved without raising any doubts as to their compatibility with the EEA Agreement, provided that there are no special circumstances. These categories of aid are described in Section 2. Other aid measures notified to the Authority will be subject to the appropriate procedures<sup>3</sup> and normally to the Code of Best Practice for the conduct of state aid control procedures.
- (2) The purpose of these Guidelines is to set out the conditions under which the Authority will usually adopt a short-form decision declaring certain types of state support measures compatible with the EEA Agreement under the simplified procedure and to provide guidance in respect of the procedure itself. When all the conditions set out in these Guidelines are met, the Authority will use its best endeavours to adopt a short-form decision that the notified measure does not constitute aid or not to raise objections within 20 working days from the date of notification, in accordance with

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<sup>1</sup> This Chapter corresponds to the Notice from the Commission on a simplified procedure for treatment of certain types of State Aid, OJ C 136, 16.6.2009, p. 3.

<sup>2</sup> See, in particular, the Guidelines for State aid for research and development and innovation, (not yet published), hereinafter referred to as the "Guidelines for Research and Development and Innovation"; the Guidelines on State aid to promote risk capital investments in small and medium-sized enterprises, OJ L 184, 16.7.2009, p. 18, hereinafter the "Risk Capital Guidelines"; the Guidelines on State aid for environmental protection, (not yet published), hereinafter the "Environmental Aid Guidelines"; the Guidelines on national regional aid for 2007-2013, OJ L 54, 28.2.2008, p. 1, hereinafter the "Regional Aid Guidelines"; the Decision concerning the prolongation of the Guidelines on State aid to shipbuilding, OJ L 148, 11.6.2009, p. 55, hereinafter the "Shipbuilding Guidelines"; the Guidelines on state aid to cinematographic and other audiovisual works, (not yet published), hereinafter the "Cinema Guidelines"; Commission Regulation (EC) No 800/2008 of 6.8.2008 declaring certain categories of aid compatible with the common market in application of Articles 87 and 88 of the Treaty (General block exemption Regulation), OJ L 214, 9.8.2008, p. 3, incorporated in Annex XV to the EEA Agreement by Joint Committee Decision No 120/2008, published in OJ L 339, 18.12.2008, p. 111 and EEA Supplement No 79, 18.12.2008, p. 20.

<sup>3</sup> Measures notified to the Authority in the context of the current financial crisis pursuant to the Authority's guidelines entitled "The application of State aid rules to measures taken in relation to financial institutions in the context of the current global financial crisis" (not yet published) and the "Temporary Framework for State aid measures to support access to finance in the current financial and economic crisis" (not yet published) will not be subject to the simplified procedure set out in these Guidelines. Specific ad hoc arrangements have been put in place in order to deal swiftly with those cases.

Article 4(2) or Article 4(3) in Part II of Protocol 3 to the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice.

- (3) However, if any of the safeguards or exclusions set out in points 6 to 12 of these Guidelines are applicable, the Authority will revert to the normal procedure regarding notified aid described in Chapter II of Protocol 3 and will then adopt a full-form decision pursuant to Article 4 and/or Article 7 of that Protocol. In any case, the only legally enforceable time limits are those set out in Article 4(5) and Article 7(6) of Protocol 3.
- (4) By following the procedure outlined in these Guidelines, the Authority aims to make EEA state aid control more predictable and efficient. No part of these Guidelines should be interpreted as implying that a support measure which does not qualify as state aid within the meaning of Article 61 of the EEA Agreement must be notified to the Authority, although EFTA States remain free to notify such support measures for reasons of legal certainty.

## **2. Categories of State Aid Suitable for Treatment under the Simplified Procedure**

Eligible categories of state aid

- (5) The following categories of measures are in principle suitable for treatment under the simplified procedure:
  - (a) Category 1: Aid measures falling within the “standard assessment” sections of existing guidelines

Aid measures falling within the “standard assessment” (so-called “safe harbour” sections<sup>4</sup>), or equivalent types of assessment<sup>5</sup> in horizontal guidelines, which are not covered by the General block exemption Regulation, are in principle suitable for treatment under the simplified procedure.

The simplified procedure will only be applied in cases where the Authority is satisfied, after the pre-notification phase (see points 13 to 16), that all the substantive and procedural requirements laid down in the applicable sections of the respective guidelines are fulfilled. This implies that the pre-notification phase confirms that the notified aid measure *prima facie* meets the relevant conditions, as further detailed in each of the applicable horizontal instruments, concerning:

- type of beneficiaries,
- eligible costs,
- aid intensities and bonuses,
- individual notification ceiling or maximum aid amount,
- type of aid instrument used,

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<sup>4</sup> Such as Section 5 of the Guidelines for Research and Development and Innovation or Section 3 of the Environmental Aid Guidelines, and Section 4 of the Risk Capital Guidelines.

<sup>5</sup> Regional Aid Guidelines; Section 3.1.2 of the Guidelines on State aid for rescuing and restructuring firms in difficulty, OJ L 107, 28.4.2005, p. 28, hereinafter the “Rescue and Restructuring Guidelines”.

- cumulation,
- incentive effect,
- transparency,
- exclusion of beneficiaries which are subject to an outstanding recovery order<sup>6</sup>.

The types of measures for which the Authority is prepared to consider applying the simplified procedure within this category include in particular the following:

(i) risk capital measures taking a form other than a participation into a private equity investment fund and meeting all other conditions of Section 4 of the Risk Capital Guidelines;

(ii) environmental investment aid meeting the conditions of Section 3 of the Environmental Aid Guidelines:

- the eligible cost basis of which is determined on the basis of a full cost calculation methodology in line with point 82 of the Environmental Aid Guidelines<sup>7</sup>, or
- including an eco-innovation bonus demonstrated to be in line with point 78 of the Environmental Aid Guidelines<sup>8</sup>;

(iii) aid for young innovative enterprises granted in accordance with Section 5.4 of the Guidelines for Research and Development and Innovation and the innovative character of which is determined on the basis of Section 5.4(b)(i) of the Guidelines<sup>9</sup>;

(iv) aid for innovation clusters granted in accordance with Sections 5.8 and 7.1 of the Guidelines for Research and Development and Innovation;

(v) aid for process and organisational innovation in services granted in accordance with Section 5.5 of the Guidelines for Research and Development and Innovation;

(vi) ad hoc regional aid which is below the individual notification threshold laid down in point 53 of the Regional Aid Guidelines<sup>10</sup>;

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<sup>6</sup> The Authority will revert to the normal procedure where the notified aid measure could benefit an undertaking which is subject to an outstanding recovery order following a previous Authority decision declaring an aid unlawful and incompatible with the EEA Agreement (so-called Deggendorf issue). See Case C-188/92 TWD Textilwerke Deggendorf [1994] ECR I-833.

<sup>7</sup> Article 18(5) of the General block exemption Regulation foresees a simplified cost calculation methodology.

<sup>8</sup> The General block exemption Regulation does not exempt eco-innovation bonuses.

<sup>9</sup> Only aid to young innovative enterprises meeting the conditions laid down in point 5.4(b)(ii) of the Guidelines for Research and Development and Innovation are subject to the General block exemption Regulation.

<sup>10</sup> In such cases, the information to be provided by the EFTA State will need to demonstrate upfront that: (i) the aid amount remains below the notification threshold (without sophisticated net present value calculations); (ii) the aid concerns a new investment (no replacement investment); and (iii) the beneficial effects of the aid on regional development manifestly outweigh the distortions of competition it creates. See for example the Commission's Decision in case N 721/2007 (Poland, "Reuters Europe SA").

(vii) rescue aid in the manufacturing and services sectors (except in the financial sector) meeting all substantive conditions of Sections 3.1.1 and 3.1.2 of the Rescue and Restructuring Guidelines<sup>11</sup>;

(viii) rescue and restructuring schemes for small enterprises meeting all conditions of Section 4 of the Rescue and Restructuring Guidelines<sup>12</sup>;

(ix) ad hoc restructuring aid for small and medium enterprises, provided it meets all the conditions laid down in Section 3 of the Rescue and Restructuring Guidelines<sup>13</sup>;

(x) export credits in the shipbuilding sector meeting all the conditions of Section 3.3.4 of the Shipbuilding Guidelines<sup>14</sup>;

(xi) audiovisual support schemes meeting all the conditions set out in Section 2.3 of the Cinema Guidelines as regards the development, production, distribution and promotion of audiovisual works<sup>15</sup>.

The above list is illustrative and may evolve on the basis of future revisions of the currently applicable instruments or the adoption of new instruments. The Authority may review this list from time to time to keep it in line with applicable state aid rules.

(b) Category 2: Measures corresponding to well-established Authority decision-making practice

Aid measures with features corresponding to those of aid measures approved in at least three earlier Authority decisions (hereinafter “precedent decisions”)<sup>16</sup>, the assessment of which can thus be immediately carried out on the basis of this established Authority decision-making practice, are in principle suitable for treatment under the simplified procedure. Only Authority decisions adopted within the last ten years preceding the date of pre-notification (see point 14) may qualify as “precedent decisions”.

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<sup>11</sup> See for example the Commission’s Decision in cases N 28/2006 (Poland, Techmatrans), N 258/2007 (Germany, Rettungsbeihilfe zugunsten der Erich Rohde KG) and N 802/2006 (Italy, rescue aid to Sandretto Industrie).

<sup>12</sup> See for example the Commission’s Decisions in cases N 85/2008 (Austria, Guarantee scheme for small and medium-sized enterprises in the region of Salzburg), N 386/2007 (France, Rescue and restructuring scheme for small and medium-sized enterprises), N 832/2006 (Italy, Rescue and restructuring scheme Valle d’Aosta). This approach is in line with Article 1(7) of the General block exemption Regulation.

<sup>13</sup> See for example the Commission’s Decisions in cases N 92/2008 (Austria, Restructuring aid for Der Bäcker Legat) and N 289/2007 (Italy, Restructuring aid to Fiem SRL).

<sup>14</sup> See for example the Commission’s Decisions in cases N 76/2008 (Germany, Prolongation of CIRR financing scheme for the export of ships), N 26/2008 (Denmark, Changes to financing scheme for the export of ships) and N 760/2006 (Spain, Extension of export financing scheme — Spanish shipbuilding).

<sup>15</sup> Although the Guidelines’ criteria apply directly only to the activity of production, in practice, they are also applied by analogy to assess the compatibility of the activities of pre- and post-production of audiovisual works, as well as the principles of necessity and proportionality under Articles 61(3)(c) of the EEA Agreement. See for example the Commission’s Decisions in cases N 233/2008 (Latvian film support scheme), N 72/2008 (Spain, Scheme for the promotion of films in Madrid), N 60/2008 (Italy, Film support in the Sardinia region) and N 291/2007 (Netherlands Film Fund).

<sup>16</sup> The Authority may also rely on decisions adopted by the Commission when assessing whether there is a well-established decision-making practice.

The simplified procedure will only be applied in cases where the Authority is satisfied, after the pre-notification phase (see points 13-16), that the relevant substantive and procedural conditions which governed the precedent decisions are met, in particular as regards the objectives and overall set-up of the measure, the types of beneficiaries, eligible costs, individual notification ceilings, aid intensities and (where applicable) bonuses, cumulation provisions, incentive effect, and transparency requirements. In addition, as pointed out in point 11, the Authority will revert to the normal procedure where the notified aid measure could benefit an undertaking which is subject to an outstanding recovery order following a previous Authority decision declaring an aid unlawful and incompatible with the EEA Agreement (so-called Deggendorf issue).

The types of measures for which the Authority is prepared to consider applying the simplified procedure within this category include in particular the following:

(i) aid measures for the preservation of national cultural heritage related to activities linked to historic, ancient sites or national monuments, provided that the aid is limited to "heritage conservation" within the meaning of Article 61(3)(c) of the EEA Agreement read in conjunction with Article 107(3)(d) of the Treaty on the Functioning of the European Union<sup>17</sup>;

(ii) aid schemes for theatre, dance and music activities<sup>18</sup>;

(iii) aid schemes for the promotion of minority languages<sup>19</sup>;

(iv) aid measures in favour of the publishing industry<sup>20</sup>;

(v) aid measures in favour of broadband connectivity in rural areas<sup>21</sup>;

(vi) guarantee schemes for shipbuilding finance<sup>22</sup>;

(vii) aid measures fulfilling all other applicable provisions of the General block exemption Regulation, but excluded from its application merely because:

- the measures constitute "ad hoc aid"<sup>23</sup>,

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<sup>17</sup> See for example the Commission's Decisions in cases N 393/2007 (Netherlands, Subsidy to NV Bergkwartier), N 106/2005 (Poland, Hala Ludowa in Wroclaw) and N 123/2005 (Hungary, Earmarked scheme for tourism and culture in Hungary).

<sup>18</sup> See for example the Commission's Decisions in cases N 340/2007 (Spain, Aid for theatre, dance, music and audiovisual activities in the Basque country), N 257/2007 (Spain, Promotion of theatre production in the Basque country) and N 818/99 (France; Parafiscal tax on spectacles and concerts).

<sup>19</sup> See for example the Commission's Decisions in cases N 776/2006 (Spain, Aid for the promotion of the Basque Language), N 49/2007 (Spain, Aid for the promotion of the Basque Language) and N 161/2008 (Spain, Aid to the Basque Language).

<sup>20</sup> See for example the Commission's Decisions in cases N 687/2006 (Slovak Republic, Aid to Kalligram s.r.o. in favour of a periodical), N 1/2006 (Slovenia, Promotion of the publishing industry in Slovenia) and N 268/2002 (Italy, Aid in favour of the publishing industry in Sicily).

<sup>21</sup> See for example the Commission's Decisions in cases N 264/2006 (Italy, Broadband for rural Tuscany), N 473/2007 (Italy, Broadband connections for Alto Adige) and N 115/2008 (Broadband in rural areas of Germany).

<sup>22</sup> See for example the Commission's Decisions in cases N 325/2006 (Germany, prolongation of the guarantee schemes for shipbuilding finance), N 35/2006 (France, Guarantee scheme for ship financing and bonding) and N 253/2005 (Netherlands, Guarantee scheme for ship financing).

<sup>23</sup> Ad hoc aid is often excluded from the scope of the General block exemption Regulation. This exclusion applies to all large enterprises (Article 1(6) of the General block exemption Regulation), as well as, in

- the measures are provided in an untransparent form (Article 5 of the General block exemption Regulation), but their gross grant equivalent is calculated on the basis of a methodology approved by the Authority in three individual decisions adopted after 1 January 2007;

(viii) measures supporting the development of local infrastructure not constituting state aid within the meaning of Article 61(1) of the EEA Agreement in view of the fact that, having regard to the specificities of the case, the measure in question will not have any effect on intra-EEA trade<sup>24</sup>;

(ix) the prolongation and/or modification of existing schemes outside the scope of the simplified procedure foreseen in the Authority's Decision No 195/04/COL of 14 July 2004 on the implementing provisions referred to under Article 27 in Part II of Protocol 3 to the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice<sup>25</sup> (see category 3 below), for example as regards the adaptation of existing schemes to new horizontal guidelines<sup>26</sup>.

This list is illustrative, since the exact scope of this category may evolve in line with Authority decision-making practice. The Authority may review this illustrative list from time to time to keep it in line with evolving practice.

#### (c) Category 3: Prolongation or extension of existing schemes

Article 4 of the Authority's Decision No 195/04/COL foresees a simplified notification procedure for certain alterations to existing aid. Under that Article, the "[...] following alterations to existing aid shall be notified on the simplified notification form set out in Annex II to this Decision:

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certain instances, to small and medium-sized enterprises (see Articles 13 and 14 concerning regional aid, Article 16 concerning female entrepreneurship, Article 29 concerning aid in the form of risk capital and Article 40 concerning aid for the recruitment of disadvantaged workers). As regards the specific conditions governing ad hoc regional investment aid, see footnote 10 above. Moreover these Guidelines is without prejudice to any Authority communication or guidance paper laying down detailed economic assessment criteria for the compatibility analysis of cases subject to individual notification.

<sup>24</sup> See the Commission's Decisions in cases N 258/2000 (Germany, leisure pool Dorsten), N 486/2002 (Sweden, Aid in favour of a congress hall in Visby), N 610/2001 (Germany, Tourism infrastructure program Baden-Württemberg), N 377/2007 (The Netherlands, Support to Bataviawerf — Reconstruction of a vessel from the 17th century). In order for the measure concerned to be considered as not having any effect on intra-EEA trade, these four precedent decisions require, most prominently, a demonstration by the EFTA State of the following features: 1. that the aid does not lead to investments being attracted in the region concerned; and 2. that the goods/services produced by the beneficiary are purely local and/or have a geographically limited attraction zone; and 3. that there is no more than marginal effect on consumers from neighbouring EEA States; and 4. that the market share of the beneficiary is minimal on any relevant market definition used and that the beneficiary does not belong to a wider group of undertakings. These features should be highlighted in the draft notification form referred to in point 14 of these Guidelines.

<sup>25</sup> OJ L 139 of 25.5.2006, p. 37, EEA Supplement No. 26, 25.5.2006, p. 1. Amended by Decision 319/05/COL of 14.12.2005 (Published in the OJ L 113 of 27.4.2006, p. 24, EEA Supplement No. 21, 27.4.2006, p. 46) and Decision 789/08/COL of 17.12.2008 (not yet published). Commission Regulation (EC) No 794/2004 of 21.4.2004 implementing Council Regulation (EC) No 659/1999 laying down detailed rules for the application of Article 93 of the EC Treaty, OJ L 140, 30.4.2004, p. 1.

<sup>26</sup> See for example the Commission's Decisions in cases N 585/2007 (United Kingdom, Prolongation of Yorkshire R&D scheme), N 275/2007 (Germany, Prolongation of rescue and restructuring scheme for small and medium-sized enterprises in Bremen), N 496/2007 (Italy (Lombardia) Guarantee Fund for the development of risk capital) and N 625/2007 (Latvia, Aid to risk capital to small and medium-sized enterprises).

- (a) increases in the budget of an authorised aid scheme exceeding 20 %;
- (b) prolongation of an existing authorised aid scheme by up to six years, with or without an increase in the budget;
- (c) tightening of the criteria for the application of an authorised aid scheme, a reduction of aid intensity or a reduction of eligible expenses”.

The possibility of applying Article 4 of the Authority’s Decision No 195/04/COL remains unaffected by these Guidelines. However, the Authority invites the notifying EFTA State to proceed in accordance with these Guidelines, including pre-notification of the aid measures concerned, while using the simplified notification form annexed to the Authority’s Decision No 195/04/COL. The Authority will, in the context of this procedure, also invite the EFTA State concerned to agree on the publication on the Authority’s website of the summary of its notification.

#### Safeguards and exclusions

- (6) Since the simplified procedure applies only to aid notified on the basis of Article 1(3) in Part I of Protocol 3 to the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice, unlawful aids are excluded. Moreover, to the extent that the EEA Agreement applies to the following sectors, the simplified procedure will not apply to aid favouring activities in the fishery and aquaculture sectors, activities in the primary production of agricultural products or activities in the processing or marketing of agricultural products due to the specificities of the sectors concerned. In addition, the simplified procedure will not be applied retroactively to measures pre-notified before 1 January 2010.
- (7) In assessing whether a notified aid measure falls into one of the eligible categories set out in point 5, the Authority will ensure that the applicable guidelines and/or established Authority decision-making practice on the basis of which the notified aid measure is to be assessed, as well as all relevant factual circumstances, are established with sufficient clarity. Given that the completeness of the notification constitutes a key element for determining whether the simplified procedure is to be applied, the notifying EFTA State is invited to provide all relevant information, including the precedent decisions relied upon, if appropriate, at the outset of the pre-notification phase (see point 14).
- (8) Where the notification form is not complete or contains misleading or incorrect information, the Authority will not apply the simplified procedure. In addition, to the extent that the notification involves novel legal issues of a general interest, the Authority will not normally apply the simplified procedure.
- (9) While it can normally be assumed that aid measures falling into the categories set out in point 5 will not raise doubts as to their compatibility with the EEA Agreement, there may nonetheless be special circumstances which require a closer investigation. In such cases, the Authority may revert to the normal procedure at any time.
- (10) Such special circumstances may include in particular: certain forms of aid as yet untested in the Authority’s decision-making practice, precedent decisions which the Authority may be in the course of reassessing in the light of recent case-law or

developments of the EEA, novel technical issues, or concerns as regards the measure's compatibility with other provisions of the EEA Agreement (for example, non-discrimination, the four freedoms, etc.).

- (11) The Authority will revert to the normal procedure where the notified aid measure could benefit an undertaking which is subject to an outstanding recovery order following a previous Authority decision declaring an aid unlawful and incompatible with the EEA Agreement (so-called Deggendorf issue).
- (12) Finally, if a third party expresses substantiated concerns about the notified aid measure within the time-limit laid down in point 21 of these Guidelines, the Authority will revert to the normal procedure<sup>27</sup> and will inform the EFTA State to that effect.

### **3. Procedural Provisions**

#### Pre-notification contacts

- (13) The Authority has found pre-notification contacts with the notifying EFTA State beneficial even in seemingly unproblematic cases. Such contacts allow the Authority and the EFTA States, in particular, to determine at an early stage the relevant Authority instruments or precedent decisions, the degree of complexity which the Authority's assessment is likely to involve and the scope and depth of the information required for the Authority to make a full assessment of the case.
- (14) In view of the time constraints of the simplified procedure, the assessment of a state support measure under the simplified procedure is conditional upon the EFTA State holding pre-notification contacts with the Authority. In this context, the EFTA State is invited to submit a draft notification form with the necessary supplementary information sheets provided for in Article 2 of the Authority's Decision No 195/04/COL, and the relevant precedent decisions if appropriate, via the Authority's established IT application. The EFTA State may also request, at this stage, that the Authority waive the completion of certain parts of the notification form. The EFTA State and the Authority may also agree, in the context of the pre-notification contact, that the EFTA State does not need to provide a draft notification form and accompanying information in the pre-notification phase. Such an agreement may be appropriate, for instance, due to the repetitive nature of certain aid measures (for instance the category of aid set out in point 5(c) of these Guidelines). In this context, the EFTA State may be invited to proceed directly with the notification where detailed discussion about the envisaged aid measures is not considered necessary by the Authority.
- (15) Within two weeks from the receipt of the draft notification form, the Authority will organise a first pre-notification contact. The Authority will promote the holding of contacts via email or conference calls or, at the specific request of the EFTA State concerned, organise meetings. Within 5 working days after the last pre-notification contact, the Authority will inform the EFTA State concerned whether it considers that

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<sup>27</sup> This does not imply any increase of third parties' rights in view of the case law of the EFTA Court and the Community Courts. See Case T-95/03 Asociación de Empresarios de Estaciones de Servicio de la Comunidad Autónoma de Madrid and Federación Catalana de Estaciones de Servicio v Commission [2006] ECR II-4739, paragraph 139 and Case T-73/98 Prayon-Rupel v Commission [2001] ECR II-867, paragraph 45.

the case qualifies prima facie for treatment under the simplified procedure, which information still needs to be provided for the measure to qualify for treatment under that procedure, or whether the case will remain subject to the normal procedure.

- (16) The indication by the Authority that the case concerned can be treated under the simplified procedure implies that the EFTA State and the Authority agree prima facie that the information provided in the pre-notification context would, if submitted as a formal notification, constitute a complete notification. The Authority would thus, in principle, be in a position to approve the measure, once formally notified on the basis of a notification form embodying the result of the pre-notification contacts, without a further request for information.

#### Notification

- (17) The EFTA State must notify the aid measure(s) concerned no later than 2 months after it is informed by the Authority that the measure qualifies prima facie for treatment under the simplified procedure. If the notification includes any changes as compared to the information presented in the pre-notification documents, such changes must be highlighted prominently in the context of the notification form.
- (18) The submission of the notification by the EFTA State concerned triggers the start of the period referred to in point 2.
- (19) The simplified procedure does not provide for a specific simplified notification form. Except as regards cases which fall within the category of aid set out in point 5(c) of these Guidelines, the notification is to be carried out on the basis of the standard notification forms in the Authority's Decision No 195/04/COL.

#### Publication of a summary of the notification

- (20) The Authority will publish on its website a summary of the notification, based on the information provided by the EFTA State, in the standard form set out in the Annex to these Guidelines. The standard form contains an indication that, on the basis of the information provided by the EFTA State, the aid measure may qualify for the application of a simplified procedure. By requesting the Authority to treat a notified measure under these Guidelines, the EFTA State concerned will be considered to agree that the information provided in its notification, which is to be published on the website in the form set out in the Annex to these Guidelines, is non-confidential in nature. Furthermore, EFTA States are invited to clearly indicate whether the notification contains any business secrets.
- (21) Interested parties will then have 10 working days to submit observations (including a non-confidential version), in particular on circumstances which might require a more thorough investigation. In cases where substantiated competition concerns are raised by interested parties with respect to the notified measure, the Authority will revert to the normal procedure and inform the EFTA State and the interested party or parties concerned to that effect. The EFTA State concerned will also be informed of any substantiated concerns and will be given the opportunity to comment on them.

#### Short-form decision

- (22) If the Authority is satisfied that the notified measure fulfils the criteria for the simplified procedure (see, in particular, point 5), it will issue a short-form decision. The Authority will thus use its best endeavours to adopt a decision that the notified measure does not constitute aid or a decision not to raise objections pursuant to Article 4(2) or (3) in Part II of Protocol 3 within 20 working days from the date of notification, unless any safeguard or exclusion referred to in points 6 to 12 of these Guidelines is applicable.

#### Publication of the short-form decision

- (23) In accordance with Article 26(1) in Part II of Protocol 3 the Authority will publish a summary notice of the decision in the Official Journal of the European Union and the EEA Supplement thereto. The short-form decision will be made available on the Authority's website. It will contain a reference to the summary information about the notification as published on the Authority's website at the time of notification, a standard assessment of the measure under Article 61(1) of the EEA Agreement and, where applicable, a statement that the aid measure is declared compatible with the EEA Agreement because it falls within one or more of the categories set out in point 5 of these Guidelines, with the applicable category or categories being explicitly identified and a reference to the applicable horizontal instruments and/or precedent decisions included.

#### **4. Final Provisions**

- (24) Upon request of the EFTA State concerned, the Authority will apply the principles set out in these Guidelines to measures notified pursuant to point 17 as from 1 January 2010.
- (25) The Authority may review these Guidelines on the basis of important competition policy considerations or in order to take account of the evolution of state aid law and decision-making practice. The Authority intends to carry out a first review of these Guidelines at the latest four years after its publication. In this context, the Authority will examine the extent to which specific simplified notification forms should be developed in order to facilitate the implementation of these Guidelines.

## ANNEX

Summary of Notification: Invitation to third parties to submit comments

Notification of a state aid measure

On ... the Authority received a notification of an aid measure pursuant to 1(3) in Part I of Protocol 3 to the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice. On preliminary examination, the Authority finds that the notified measure could fall within the scope of the Authority's Guidelines on a simplified procedure for treatment of certain types of state aid (OJ C ..., p. ...).

The Authority invites interested third parties to submit their possible observations on the proposed measure to the Authority.

The main features of the aid measure are the following:

Reference number of the aid: N ...

EFTA State:

EFTA State reference number:

Region:

Granting authority:

Title of the aid measure:

National legal basis:

Proposed EEA basis for assessment: ... guidelines or established Authority practice as highlighted in Authority Decision (1, 2 and 3).

Type of measure: Aid scheme/Ad hoc aid

Amendment of an existing aid measure:

Duration (scheme):

Date of granting:

Economic sector(s) concerned:

Type of beneficiary (SMEs/large enterprises):

Budget:

Aid instrument (grant, interest rate subsidy, ...):

Observations raising competition issues relating to the notified measure must reach the Authority no later than 10 working days following the date of this publication and include a non-confidential version of these observations to be provided to the EFTA State

concerned and/or other interested parties. Observations can be sent to the Authority by fax, by post or email under reference number N ... to the following address:

EFTA Surveillance Authority

Rue Belliard 35

1040 Brussels

BELGIUM

Fax (+32)(0)2 286 18 00

Email: [registry@eftasurv.int](mailto:registry@eftasurv.int)