

State Aid Scoreboard – EEA/EFTA States

Autumn 2008

The logo of the EFTA Surveillance Authority, featuring the text "EFTA SURVEILLANCE" above "AUTHORITY" in a white, sans-serif font, enclosed in a white rectangular frame with a small gap at the bottom right corner. The logo is positioned in the top right corner of the page.

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Introduction

This is the third time that the EFTA Surveillance Authority (the “Authority”) publishes a scoreboard on the volume of state aid granted in Iceland, Liechtenstein and Norway which are Contracting Parties to the EEA Agreement (hereinafter referred to as the “EFTA States”). The first edition reflected data for the years 2004 and 2005 while the second covered the year of 2006. The present scoreboard is more comprehensive as it covers state aid granted in the EFTA States during the whole period of 2004-2007. For this purpose previous data on aid granted in 2004-2006 have been reviewed, and where necessary, corrected.

The scoreboard is based on data submitted by the EFTA States according to their obligations under the EEA Agreement and the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice. The methods for gathering data from the EFTA States and the manner of processing them have been based on a relatively new reporting system applied as of 2004.

Just like the previous scoreboards, the present scoreboard is also based on the policy objectives established by the European Commission in the “State Aid Action Plan”. The State Aid Action Plan was launched in 2005 and calls for “less and better targeted State aid”. The goal of the plan is to use the state aid rules to encourage contributions to the Lisbon Strategy by focusing aid on improving the competitiveness of the industry and creating sustainable jobs.¹ In practical terms this means that while overall state aid is to be reduced, aid towards horizontal objectives, such as research and development, innovation and risk capital may be increased. One purpose of the current scoreboard is to assess state aid policy in the EFTA States in the light of the policy objectives in the State Aid Action Plan. While the State Aid Action Plan, including the Lisbon objectives, is principally a strategy set for the European Union it should be recalled that the Authority and the EEA Joint Committee adopt measures for implementing the State aid rules which are similar to those applicable in the European Community. The present scoreboard therefore presents data on the volume of aid granted in the light of the objectives of the State Aid Action Plan.

The present scoreboard has – just like the previous scoreboards - been prepared in close contact with the European Commission. This implies that scoreboard figures have been calculated on the basis of a methodology similar to that applied for purposes of the state aid scoreboard issued by the European Commission. This facilitates a comparison between the two scoreboards and enables readers to obtain an overview of aid granted in the EEA. In addition, the close cooperation with the European Commission has made it possible to include comparisons between the volumes of state aid granted by one or more EFTA States with aid granted by certain EU Member States. The EU Member States selected for these comparisons are relatively close to the respective EFTA States with respect to GDP, public spending, employment and size of the country. It is relevant to note that the

¹ The Lisbon Strategy (also known as the Lisbon Agenda or Lisbon Process) is an action and development plan for the European Union, set out by the European Council in Lisbon in March 2000. The Lisbon Strategy intends to deal with the low productivity and stagnation of economic growth in the EU, through the formulation of various policy initiatives to be taken by all EU Member States - of which the broad ones are to be attained by 2010. The main fields are economic, social, and environmental renewal and sustainability. Important economic concepts of the Lisbon Strategy are innovation as the motor for economic change, the “learning economy” and social and environmental renewal.

cooperation between the Commission and the Authority has this year also resulted in the publication of data on the EFTA States in the scoreboard issued by the Commission for the autumn 2008.²

The scoreboard prepared by the Authority differs, however, from that of the European Commission due to the more limited scope of the EEA Agreement compared to the EC Treaty. In this regard it is relevant to recall that the EEA Agreement provides for an extension of the internal market of the Community to the territories of the three EFTA States via the application of the rules on the four freedoms (on free movement of goods, persons, services and capital) and the common competition rules. However, the agricultural and fishery policies of the Community are not covered by the EEA Agreement. Therefore, aid to these sectors is not included in the scoreboard.

Aid for transport is covered by the scoreboard. According to the aid measures reported and reviewed for purposes of the scoreboard only Norway granted aid to the transport sector.³

Another important area concerns compensation for the provision of public service obligations. In its judgment in the *Altmark* case, the European Court of Justice ruled that compensation to undertakings that perform public service obligations does not constitute state aid, provided that certain conditions are fulfilled.⁴ Hence, cases where compensation for public service obligations is given which fulfil the *Altmark* criteria are excluded from the scoreboard. However, other cases involving public funding for public service obligations and not fulfilling the *Altmark* criteria are, in principle, covered by the scoreboard. For the years 2004-2007 no aid was reported as having been granted by the three EFTA States for purposes of public service obligations.

The scoreboard covers existing aid granted under schemes or as ad hoc aid.⁵ It does not cover funding granted in line with the rules for granting *de minimis* support as such funding does not constitute state aid within the meaning of Article 61(1) of the EEA Agreement.

The scoreboard gives an overview of the state aid reported by the EFTA States during the period from 2004 to 2007. The scoreboard is divided into four main parts. **Part One** looks at the overall amount and type of state aid awarded by the EFTA States. **Part Two** provides an overview of legislative and policy developments within the area of state aid. **Part Three** provides an insight into the state of play of recovery of unlawful and incompatible state aid and an overview of pending cases in this regard. Finally, **Part Four** provides information on methodology and information sources.

The [scoreboard](#) is available online at the homepage of the Authority.

²Scoreboard published by the European Commission: Autumn 2008: http://ec.europa.eu/comm/competition/state_aid/studies_reports/2008_autumn_en.pdf

³ Although covered by the scope of the scoreboard, no aid was reported to be directed at the railways sector in 2004-2007.

⁴ Case C-280/00 *Altmark Trans and Regierungspräsidium Magdeburg* [2003] ECR I-7747 was a reference for a preliminary ruling under Article 234 EC by a German national court (Bundesverwaltungsgericht) in the proceedings pending before that court. The case concerned the grant of licenses for scheduled bus transport services in the Landkreis of Stendal (Germany) and public support for operating those services.

⁵ For a clarification of “existing aid” see Section 4.3 of Part Four.

A brief word on the financial crisis...

Since, as mentioned above, the scoreboard concerns the years 2004-2007 events taking place subsequently form, in principle, not part of the scoreboard. However, the current financial crisis is closely linked to aid packages which are bound to have an effect on the scoreboard for next year and hence a few words on the crisis situation are appropriate.

During 2008 the financial crisis has created exceptional circumstances in the EFTA States' economy, particularly in the case of Iceland. The Authority is currently in the process of assessing measures introduced by the EFTA States as a result of the imminent or already materialized crisis situation. The task of ensuring compliance with the state aid rules will be carried out by the Authority while taking appropriate account of the need to respond swiftly to the systemic risk posed by the financial crisis. The Authority will assess support measures on the basis of criteria corresponding to those applied by the European Commission, in particular, the Commission Communication on the application of state aid rules to measures taken in relation to financial institutions in the context of the current global financial crisis.⁶ As mentioned above, future scoreboards will reflect the use by the EFTA States of various forms of rescue measures to the extent they involve state aid.

⁶ OJ C 270, 25.10.2008, p. 8

1 Part One: overall state aid granted in 2004 – 2007

As referred to in the introduction, the task of the present scoreboard is to determine whether the EFTA States have granted “less” and “better targeted” state aid”. This means that while overall state aid should be reduced, aid towards horizontal objectives could be increased.

This chapter provides an overview of state aid granted in the EFTA States over the period from 2004 to 2007 as well as underlying trends. Broadly speaking, the overall state aid level in the EFTA States has not been reduced over the period reviewed. However, this result masks that on an individual basis both Iceland and Liechtenstein have decreased the grant of aid. Norway, on other hand, increased the grant of aid significantly towards the end of the period. Moreover, all EFTA States have granted “better targeted” aid over the period reviewed. Finally, in terms of how EFTA States stand in relation to EU Member States, a comparative review shows that although Norway has granted more aid than the EU-27 average, both Iceland and Liechtenstein are among the countries having granted the least aid in the EEA.

In the following graphs and tables aid for various purposes is either related to the overall level of state aid granted or aid is measured in relation to GDP. However, most data in chapter 1 excludes transport aid. Much of the public financing for transport (notably to railways) is not notified to the Authority often because the financing, due to the lack of liberalisation of the sector, is deemed by EFTA States not to constitute state aid. A statistical comparison of aid volumes is therefore more reliable when aid for transport is excluded from the total aid volume. Data in this chapter are therefore exclusive of transport aid except for in sections 1.1 (on total aid volumes), 1.2 (on sectoral aid) and 1.8 (on aid instruments).

Finally, the scoreboard is based on Euro.

1.1 State aid in absolute and relative terms

Table 1(a): State aid awarded in the three EFTA States during 2004-2007

Figures in million Euro:				
<i>Current prices</i>				
Total State aid	2004	2005	2006	2007
€				
Norway	1,122.61	1,214.48	1,226.17	1,818.73
Iceland*	17.40	17.59	24.10	17.24
Liechtenstein*	1.13	1.08	0.84	0.86
Total in the EFTA States	1,141.14	1,233.15	1,251.11	1,836.84
Transport (Norway)	205.98	243.05	277.29	450.73
Total State aid less transport				
Norway	916.63	971.43	948.88	1,368.00
Iceland*	17.40	17.59	24.10	17.24
Liechtenstein*	1.13	1.08	0.84	0.86
Total in the EFTA States	935.16	990.11	973.82	1,386.10

Table 1(b): State aid awarded in the three EFTA States during 2004-2007

Figures in million Euro:				
<i>Constant 2000 prices</i>				
Total State aid				
€	2004	2005	2006	2007
Norway	1,036.16	1,031.70	961.25	1,403.26
Iceland*	14.70	15.40	18.17	12.32
Liechtenstein*	1.10	1.05	0.80	0.81
Total in the EFTA States	1,051.95	1,048.15	980.23	1,416.39
Transport (Norway)	190.12	206.47	217.38	347.77
Total State aid less transport				
Norway	846.04	825.23	743.87	1,055.49
Iceland*	14.70	15.40	18.17	12.32
Liechtenstein*	1.10	1.05	0.80	0.81
Total in the EFTA States	861.83	841.68	762.85	1,068.62

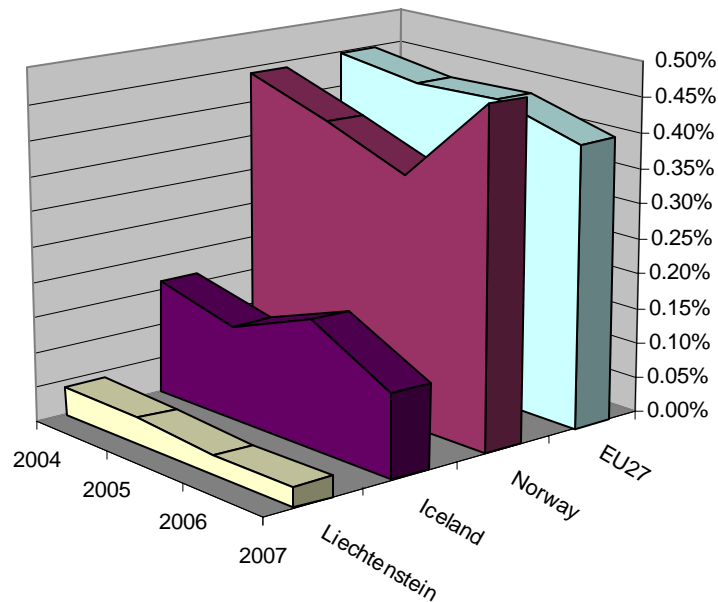
*In Iceland and Liechtenstein, the total volume of state aid is the same for the years 2004-2007, irrespectively of whether transport is included, since none of them granted aid for this purpose.

Table 1(a) provides an overview of state aid granted in current prices in the EFTA States whereas Table 1(b) shows state aid granted in constant prices in the EFTA States. While Table 1(a) shows the aid volumes as reported by EFTA States to the Authority Table 1(b) shows the aid volumes after having been corrected for price changes. This enables a comparison between the aid volumes granted by the individual EFTA States.

Tables 1(a-b) show that since Norway accounts for around 99% of total state aid granted in the three EFTA States, Norway dominates the overall figures. Table 1(b) also shows that while Norway decreased the amount of aid in real terms between 2004 and 2006 the aid was, however, significantly increased in 2007. The volume of aid increased with 46% in 2007.

In Iceland total state aid has increased up to 2006. However, following a significant decrease in the grant of aid between 2006 and 2007 Iceland ended up in 2007 having granted the lowest level of aid during the four years reviewed. In Liechtenstein total state aid decreased between 2004 and 2006.

Graph A: Total state aid (less transport) in percent of GDP during 2004-2007: EFTA States and EU-27 average⁷



Graph A and Table 2 show total state aid awarded in the EFTA States and the average of the EU Member States in percent of GDP.

Graph A shows that Norway has remained below the EU-27 average until 2006. However, the sharp rise in aid in Norway in 2007 combined with a relative decrease in the EU-27 average meant that aid in Norway bypassed the level of aid (relative to GDP) of the EU-27 average. As Table 2 shows Norway ranged above the EU-27 average. Only seven EU Member States granted more aid relative to GDP than Norway in 2007.

As to the other two EFTA States, Graph A shows that state aid granted by Iceland and Liechtenstein during 2004-2007 was rather modest in relation to GDP compared to Norway or the EU-27 average. Table 2 confirms that in 2007 Iceland was one of the countries granting the least aid while Liechtenstein was *the* country having granted the least aid of all EEA States.

⁷ GDP in current prices for the EFTA States in 2007 was in September 2008 estimated by Eurostat to be; Norway 285 498 million Euro, Iceland 14 600 million Euro and Liechtenstein 3 040 million Euro.

**Table 2: State aid (less transport) in percent of GDP in 2007:
EFTA States and EU Member States⁸**

States	% of GDP
Liechtenstein	0.03%
Estonia	0.07%
Bulgaria	0.09%
Iceland	0.12%
Luxembourg	0.13%
Lithuania	0.18%
Latvia	0.21%
Cyprus	0.24%
Greece	0.24%
Netherlands	0.24%
Romania	0.24%
United Kingdom	0.25%
Italy	0.25%
Belgium	0.27%
Austria	0.30%
Ireland	0.32%
Slovenia	0.34%
Finland	0.35%
France	0.37%
EU27	0.40%
Slovakia	0.41%
Poland	0.41%
Spain	0.41%
Norway	0.48%
Denmark	0.51%
Germany	0.58%
Malta	0.59%
Czech Republic	0.60%
Hungary	0.87%
Sweden	0.88%
Portugal	1.30%

1.2 Sectoral aid

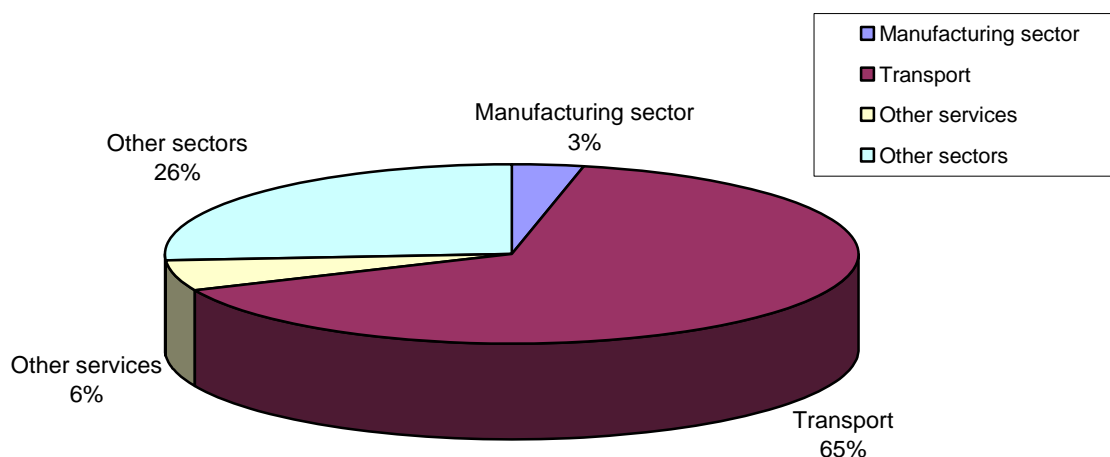
State aid may be earmarked for one or several specific industrial sectors. If it is not also aimed at a so-called horizontal objective (such as research and development or small and medium-sized enterprises) it is referred to as pure sector-specific aid. Aid may also be “mixed” which means that the aid is aimed at specific sectors while at the same time being aimed at one or several horizontal objectives. Since this section focuses on the sectoral aspect of aid, mixed aid is, in this section, classified as sectoral aid. The following graph on sectoral aid includes therefore both pure sector-specific aid and mixed aid.⁹ The purpose is to provide an overview of the type of sectors which are favoured by the EFTA States.

⁸ Aid for agriculture and fisheries is not included in the data for the EU Member States and, as mentioned above, not for the EFTA States.

⁹ This implies that aid for pure horizontal objectives (such as aid for small and medium-sized enterprises, environment, employment and training) for which a specific sector is not indicated is excluded. For the present purposes aid directed at the general economic development (e.g. regional aid) is considered as aid for a horizontal objective.

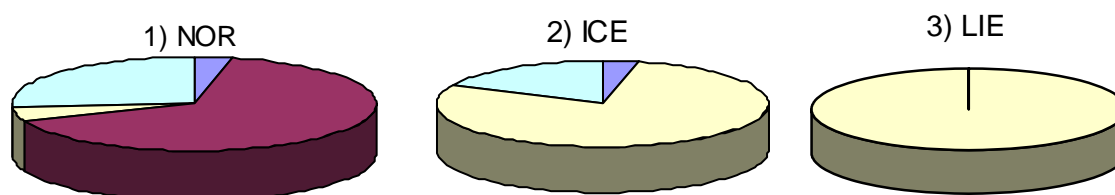
Graph B shows aid earmarked for the manufacturing sector, transport sector, other services (than transport) and finally other sectors in the three EFTA States for 2007.¹⁰ It shows that aid for the manufacturing sector represented 3% of total sectoral aid while aid for transport represented 65%. Aid for other services represented 6% and the remaining group, other sectors, received 26% of overall sectoral aid in 2007.

Graph B: Aid by sector¹¹ as a percentage of total sectoral aid in the EFTA States in 2007



Graph B shows sectoral aid on an aggregate basis for 2007 for the three EFTA States. However, as referred to above, the aggregate level of aid in the three EFTA States is dominated by the share of aid granted by Norway. The smaller Graphs B(1-3) provide therefore an overview of the grant of sectoral aid on an individual EFTA State basis. They reflect an entirely different picture of the spread of sectoral aid: Both in Iceland and Liechtenstein all, or almost all, sectoral aid is directed at other services (than transport).

Graphs B(1-3): Aid by sector as a percentage of total sectoral aid: Individual EFTA States in 2007



Graph C provides an overview of the spread of sectoral aid in Norway during 2004-2007. Graph C shows that between 2006 and 2007 sectoral aid directed to transport increased considerably in Norway. Norway is the only EFTA State which has been reported to grant transport aid most of which is aimed at maritime transport.¹² The increase in Norwegian

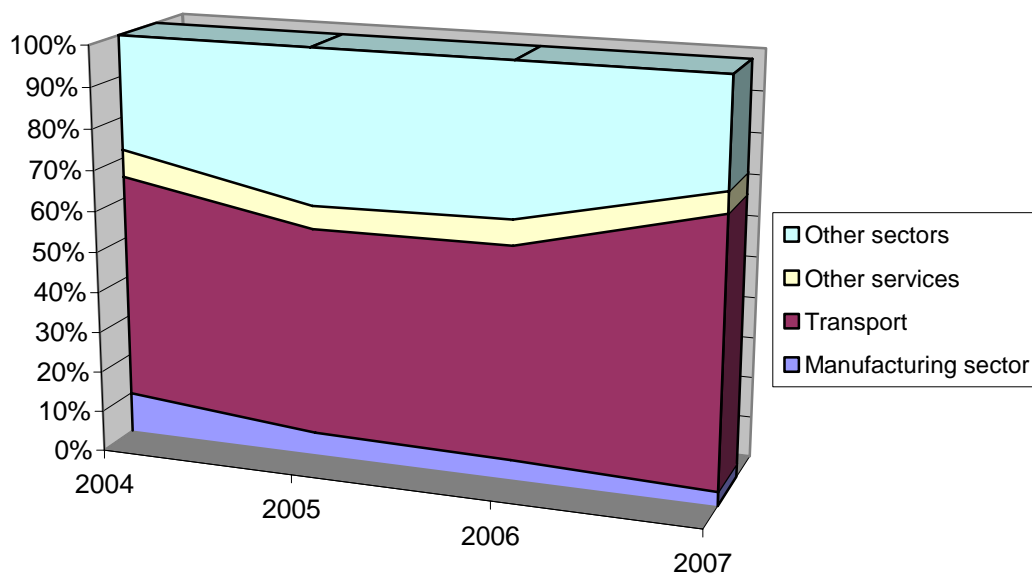
¹⁰Aid for “other sectors” includes aid for forestry, hunting, electricity, gas and water supplies as well as mining and natural gas extraction.

¹¹In total 692.61 million Euro was granted as sectoral aid in 2007 in the EFTA States. The aggregate amount for 2007 is divided as follows: Manufacturing sector: 23.26 million Euro; transport sector: 450.73 million Euro; other services: 38.3 million Euro; and other sectors: 180.32 million Euro.

¹²Based on the annual reports submitted by EFTA States no aid has been directed to the railway or airline sector.

transport aid is mainly due to the fact that Norway increased transport aid in absolute figures (e.g. from about Euro 277 million to Euro 451 million) between 2006 and 2007.

Graph C: Aid by sector as a percentage of total sectoral aid in Norway during 2004-2007



1.3 State aid for horizontal objectives

State aid granted for horizontal objectives, such as aid for the purposes of research and development, safeguarding the environment, small and medium-sized enterprises, employment and the promotion of training is, according to the Lisbon objectives, considered as being targeted to market failures and as being less distortive than sectoral aid or ad-hoc aid.¹³

However, as mentioned above, horizontal aid may nonetheless be aimed at a specific sector in which case its value in terms of being less distortive (than pure sector-specific aid) may be discussed. For this reason, the scoreboard includes two types of tables showing the extent to which aid is granted for horizontal purposes: “Mixed aid” which is aimed at a horizontal purpose (e.g. research and development) but at the same time is earmarked for specific sectors could be counted either as “horizontal aid” or alternatively as “sectoral aid”. In Table 3 mixed aid is counted as horizontal aid while in Table 4 mixed aid is counted as sectoral aid. Both tables provide an overview of the allocation of aid for different purposes in the year 2007.

¹³As referred to in the introduction the Lisbon objectives based on growth and competitiveness are cornerstones in the State Aid Action Plan.

Table 3: Pure sectoral aid and aid for horizontal objectives as a percentage of total aid (less transport aid) in 2007¹⁴

Aid with Sectoral objectives:	EFTA States	Norway	Iceland	Liechtenstein
Manufacturing sector	0%	0%	0%	0%
Other services	0.17%	0%	11.56%	0%
Other sectors	0.02%	0%	1.85%	0%
Total aid with sectoral objectives	0.19%	0%	13.41%	0%
Aid with Horizontal objectives:				
R&D&I	19.74%	19.17%	66.57%	0%
Environment and energy saving	16.57%	16.79%	0%	0%
SME	6.18%	6.26%	0%	0%
Employment	2.10%	2.01%	8.64%	0%
Regional development	52.37%	52.92%	11.37%	0%
Other horizontal objectives*	2.86%	2.85%	0%	100%
Total aid with horizontal objectives	99.81%	100%	86.59%	100%
Total aid less transport in million Euro	1386.10	1368.00	17.24	0.86

* Other horizontal aid covers cultural and heritage objectives and natural disasters.

Table 3 shows that all three EFTA States granted a high share of horizontal aid in 2007. In Norway 100% of all aid had a horizontal objective of which about 50% was for regional purposes.¹⁵ In Iceland about 85 % of the aid awarded in 2007 was directed at horizontal objectives of which most aid was granted for research and development purposes. Liechtenstein granted all its aid for “Other horizontal objectives”.

The approach in Table 3 (where mixed aid is counted as horizontal aid) is in line with that used for purposes of the scoreboard published by the European Commission.¹⁶ For this reason the same approach has been used for purposes of showing trends over time (Graphs D(1-2)) as it enables a comparison between the EFTA States and the EU Member States.

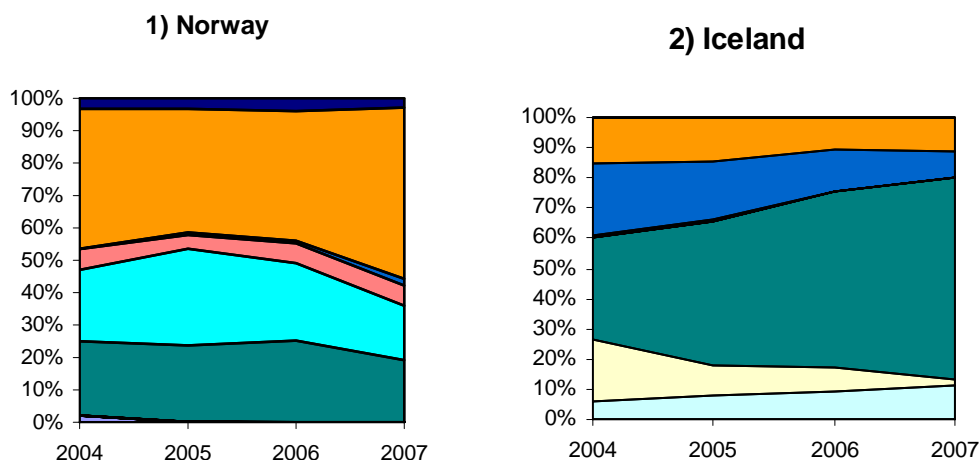
Graphs D(1-2) show the trends on the spread of horizontal and sectoral aid granted by Iceland and Norway in percent of total aid over the period reviewed. Graph D(1) shows that over the period reviewed Norway increased the grant of regional aid while aid for environmental protection was decreased. Graph D(2) also shows that during 2004-2007 Iceland increased an already high level of R&D aid.

¹⁴For purposes of the data on horizontal aid, aid in Tables 3 and 4 have been classified according to its primary objective in order to avoid double counting.

¹⁵Strictly speaking regional aid is a category of its own. However, regional aid implies also a general (non-sector specific) aspect (i.e. it is directed at the “general economic development”) and it is therefore classified under horizontal objectives in Tables 3 and 4.

¹⁶By contrast, in Table 4 the figure for “horizontal aid” covers only pure horizontal aid schemes while aid granted under sector-specific horizontal aid schemes has been included in the figure for “sectoral aid”.

Graphs D(1-2): Types of horizontal and sectoral aid in percent of total aid (less transport): 2004-2007



It is recalled that for purposes of Table 3, “mixed aid” (i.e., horizontal aid schemes directed at specific sectors) has been counted as “horizontal aid”. However, Table 4 shows that if mixed aid is classified as “sectoral aid” the situation is not entirely the same.

Table 4: Sectoral aid and aid for pure horizontal objectives as a percentage of total aid (less transport) in 2007

Aid with Sectoral objectives:	EFTA States	Norway	Iceland	Liechtenstein
Manufacturing sector	1.68%	1.69%	0.53%	0%
Other services	2.76%	2.59%	11.56%	100%
Other sectors	13.01%	13.15%	2.64%	0%
Total aid with sectoral objectives	17.45%	17.43%	14.73%	100%
Aid with Horizontal objectives:				
R&D&I	19.63%	19.05%	66.57%	0%
Environment and energy saving	3.04%	3.08%	0.00%	0%
SME	6.16%	6.24%	0.00%	0%
Employment	1.81%	1.72%	8.64%	0%
Regional development	51.65%	52.21%	10.05%	0%
Other horizontal objectives*	0.26%	0.26%	0.00%	0%
Total aid with horizontal objectives	82.55%	82.57%	85.27%	0%
Total aid less transport in million Euro	1386.10	1368.00	17.24	0.86

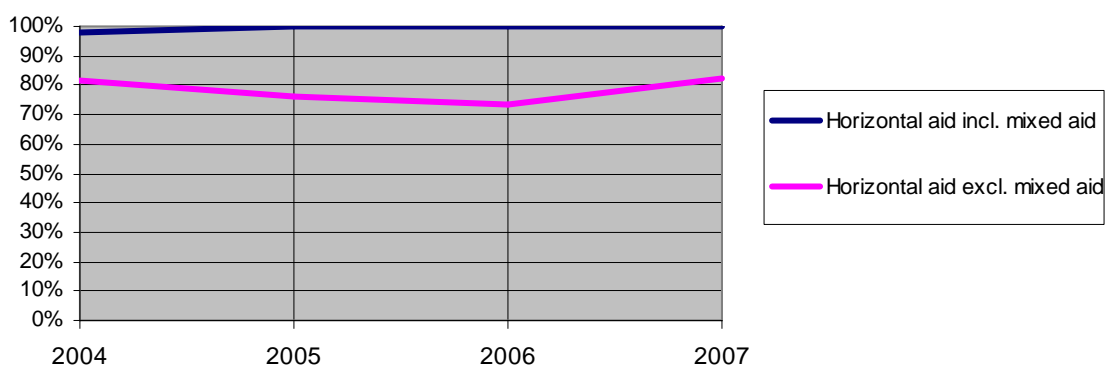
* Other horizontal aid covers cultural and heritage objectives and natural disasters.

All in all, the EFTA States have granted less “better targeted” aid when mixed aid is counted as sectoral aid. Table 4 shows that if mixed aid is counted as “sectoral aid” the percentage granted as “sectoral aid” increases, especially in the case of Norway. In the case of Liechtenstein it completely changes. Liechtenstein granted only mixed aid.

Counting mixed aid as sectoral aid means therefore that Liechtenstein granted all aid as sectoral aid.

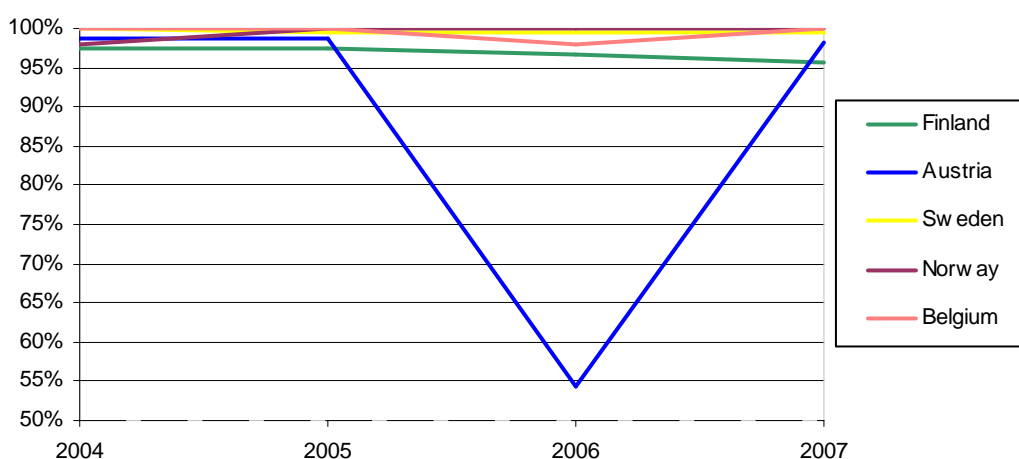
The importance of classification of mixed aid is clearly reflected in Graph E on Norway which shows the difference between the level of horizontal aid when (i) it includes mixed aid (blue); and (ii) when horizontal aid is exclusive of mixed aid (pink). According to Graph E mixed aid has represented about 20% of total aid during the whole period reviewed in Norway. This shows that the classification of mixed aid is important for purposes of determining to which extent EEA States grant horizontal aid.

Graph E: Importance of the classification of “mixed aid” during 2004-2007 in Norway



Finally, Graph F shows that the share of horizontal aid granted by Norway is fairly close to the level of horizontal aid awarded by the group of comparable EU Member States over the period reviewed.¹⁷

Graph F: Overview of grant of aid for horizontal objectives in percent of total aid (less transport) in 2004-2007: Norway and selected EU Member States¹⁸



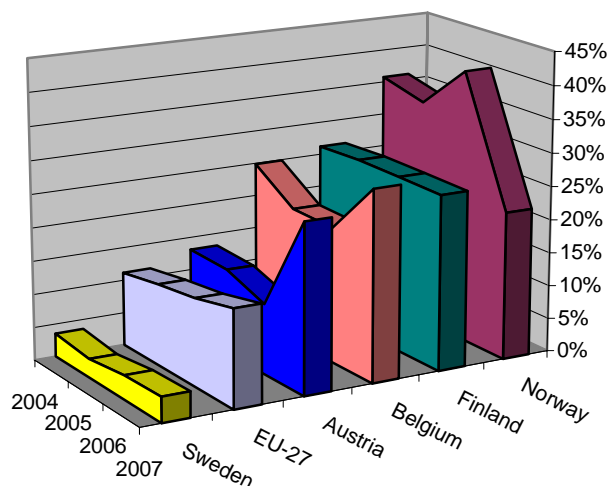
¹⁷Horizontal aid is measured as a percentage of total aid (less transport).

¹⁸In Graph F, mixed aid is counted as horizontal aid – just as in Table 3.

1.4 State aid for research and development and innovation (“R&D&I”)

Graphs G(1-2) provide an overview of aid granted for R&D&I purposes in percent of total aid by the EFTA States compared to the group of comparable EU Member States.¹⁹

Graph G(1): Overview of aid for R&D&I in percent of total aid (less transport) in 2007: Norway and selected EU Member States



Graph G(1) shows that while Norway’s share of aid to R&D&I decreased between 2006 and 2007, Norway’s level of R&D&I aid has still been fairly high during the period reviewed and a good deal higher than the EU-27 average. The pattern is similar when aid is measured in relation to GDP.

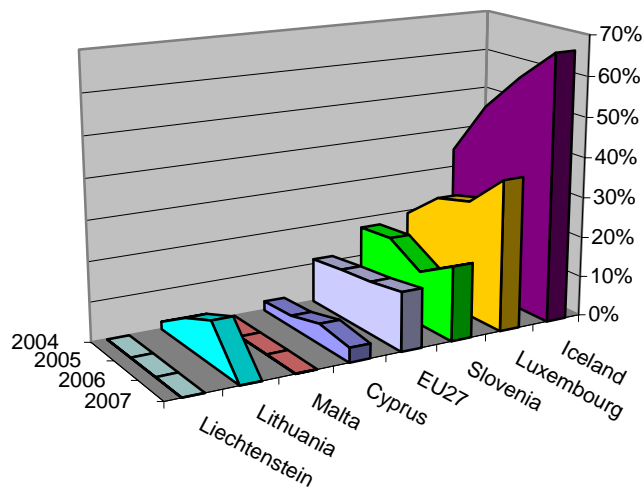
As regards the other two EFTA States, Graph G(2) shows that during the period reviewed Iceland takes the lead with a steadily increasing share of aid awarded for R&D&I purposes compared to the group of selected EU Member States. Iceland is also well above the EU-27 average. Liechtenstein, on the other hand, has not granted any aid for R&D&I purposes.

Finally, it should be recalled that while Graphs G(1-2) leave the impression that state aid directed towards R&D&I is relatively small in the countries subject to review, this does not necessarily reflect all public funding towards R&D&I in such countries. Public funding for R&D&I do not always involve state aid within the meaning of the EEA Agreement or the EC Treaty. As is apparent from data included in the scoreboard published by the European Commission, the level of public funding for R&D&I, which do not involve state aid, is generally much higher than public assistance in the form of state aid granted for R&D&I purposes.²⁰

¹⁹The amount showing total aid for R&D reflects all aid directed at the R&D irrespectively of whether R&D is the primary or secondary objective of an aid measure. This means that the amount of aid to R&D in Graphs G(1-2) is not identical to the amount of aid for the environment included in Tables 3 and 4.

²⁰See figure 10 in the scoreboard published by the European Commission, Autumn 2008.

Graph G(2): Overview of aid for R&D&I in percent of total aid (less transport) in 2007: Iceland and Liechtenstein and selected EU Member States

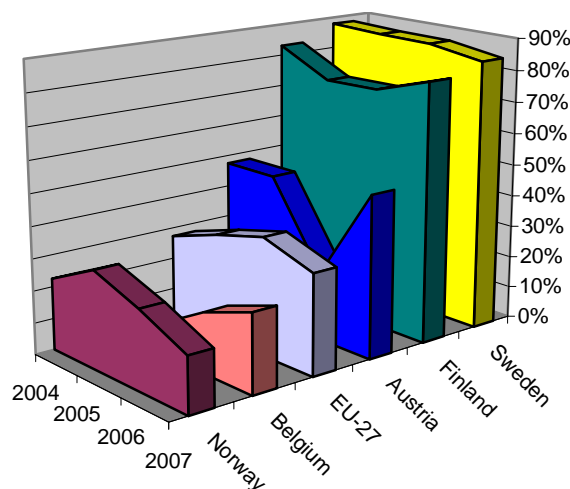


1.5 State aid for the protection of the environment and energy saving purposes

During 2004-2007 Norway was the only EFTA State which granted aid for the protection of the environment and energy saving purposes.²¹

Graph H(1) shows that although Norway is fairly close to the EU-27 average, Norway lies at the lower end when its level of environmental aid is compared to that granted by the group of selected EU Member States. The pattern is the same when the level of environmental aid is measured in relation to GDP.

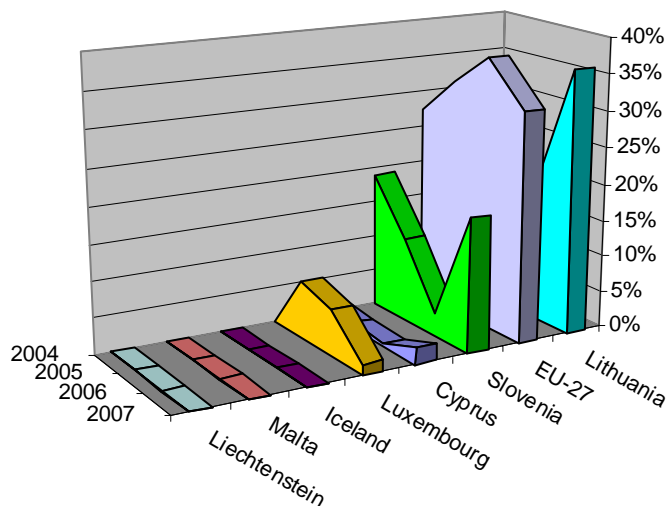
Graph H(1): Overview of aid for environmental protection and energy saving purposes in percent of total aid (less transport) in 2007: Norway and selected EU Member States



²¹The amount showing total aid for environmental purposes reflects all aid directed at the environment irrespectively of whether the environment is the primary or secondary objective of an aid measure. This means that the amount of aid to the environment in Graphs H(1-2) is not identical to the amount of aid for the environment included in Tables 3 and 4.

Graph H(2) shows that Iceland and Liechtenstein, which did not grant any aid for purposes of the environment, differ from most in the group of comparable EU Member States.

Graph H(2): Overview of aid for environmental protection and energy saving purposes in percent of total aid (less transport) in 2007: Iceland and Liechtenstein and selected EU Member States²²



1.6 State aid supporting regional development and cohesion

Regional development aid constitutes a prominent feature in Norwegian state aid policy. Table 3 shows that in 2007 approximately 53% of total aid awarded by Norway was regional aid. Also when compared to the EU-27 average, where regional aid represented 20% of total aid in 2007, Norway ranges considerably higher.

Graph D(1) shows that regional aid increased considerably in Norway in 2007. This increase is to a large extent responsible for the overall increase in state aid in Norway between 2006 and 2007. According to Table 3, in Iceland a considerably smaller share of aid was granted for regional purposes in 2007 (about 11% of total aid) than in Norway, but the share has remained fairly stable at this level (cf. Graph D(2)). Liechtenstein did not grant any regional aid during 2004-2007.

It is recalled that Table 3 classifies “mixed aid” (which are directed at both horizontal and sectoral objectives) as horizontal aid. However, counting mixed aid as sectoral aid, as is the case in Table 4, changes the picture very little. According to Table 4, regional aid in Norway represented around 52% of total aid in 2007 and 10% in Iceland.

²²The amount showing total aid for environmental purposes reflects all aid directed at the environment irrespectively of whether the environment is the primary or secondary objective of an aid measure. This means that the amount of aid to the environment in Graph H(2) is not identical to the amount of aid for the environment included in Tables 3 and 4.

1.7 Aid awarded under the block exemption regulations

With a view to reducing the administrative burden for putting specific types of aid into effect, block exemptions²³ on aid to small and medium-sized enterprises, training aid, employment aid and regional aid have come into force over the past few years.²⁴ Norway is the only EFTA State that has made use of the possibility to award aid under block exemptions.

Graph I shows that the number of aid measures applied under block exemptions has increased significantly over the period reviewed, particularly as of 2005. Moreover, the table shows that Norway has made most use of block exemptions on aid for SMEs and training aid.

Graph I: Use of block exemptions during 2004-2007 (Norway)

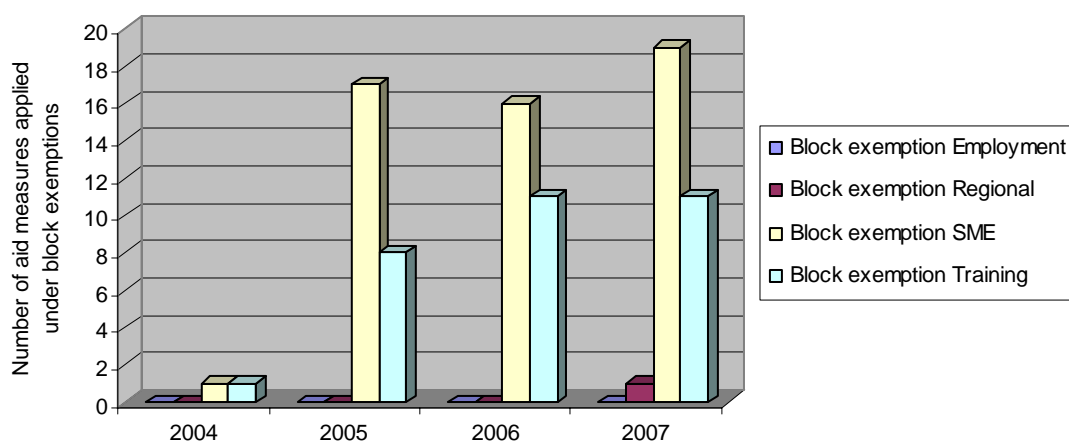


Table 5 shows that in total Norway used block exemptions more than the EU-27 average and much more than Finland and Sweden, for example.

Table 5: Use of block exemptions in 2007: Norway and selected EU Member States

	Block exemption Employment	Block exemption Training	Block exemption Regional	Block exemption SME	Block exemption Total
Austria	0	6	23	41	70
Norway	0	11	1	19	31
EU 27 average	1	4	7	11	23
Belgium	0	12	3	1	16
Finland	0	1	3	2	6
Sweden	0	0	1	0	1

²³Block exempted aid implies that there is no obligation to notify the aid measures as they are deemed to be automatically exempted from the general prohibition of state aid subject to certain conditions being fulfilled.

²⁴Commission Regulations (EC) [No. 70/2001 of 12 January 2001 on State aid to small and medium-sized enterprises](#) (OJ L 10, 13.01.2001, p. 33); [No. 68/2001 of 12 January 2001 on training aid](#) (OJ L 10, 13.01.2001, p. 20); [No. 2204/2002 of 5 December 2002 on State aid for employment](#) (OJ L 337, 13.12.2002, p. 3); [No. 1628/2006 of 24 October 2006 on state aid for national regional investment aid](#) (OJ L 302, 01.11.2006, p. 29). The Regulations have been incorporated into Annex 15 (in Sections 1(d), (f) (g) and (i)) to the EEA Agreement by means of Joint Committee Decision No. 88/2002 ([OJ L 266, 03.10.2002, p. 56](#) and EEA Supplement No. 49, 3.10.2002, p. 42), Joint Committee Decision No. 83/2003 ([OJ L 257, 09.10.2003, p. 39](#) and EEA Supplement No. 51, 9.10.2003, p. 25) and Joint Committee Decision No. 157/2006 ([OJ No L 89, 29.3.2007, p. 33](#) and EEA Supplement No 15, 29.3.2007, p. 26).

1.8 State aid instruments

Graph J below shows the extent to which the EFTA States made use of different state aid instruments in 2007. Graph J shows that the EFTA States have awarded over two thirds of total aid in the form of alleviations from tax or social security charges (around 67%) and one third in the form of grants (over 32%). On the whole, less than 1% of total aid awarded by the three EFTA States in 2007 was awarded by means of other aid instruments, that is, guarantees, equity participation, reimbursable grants and soft loans.²⁵ Table 8 shows that the conclusion is largely the same for the period 2004-2007 although in the past, grants were slightly more used than tax concessions.

Graph J: Aid instruments as a percentage of total aid (including transport) in 2007 in the EFTA States

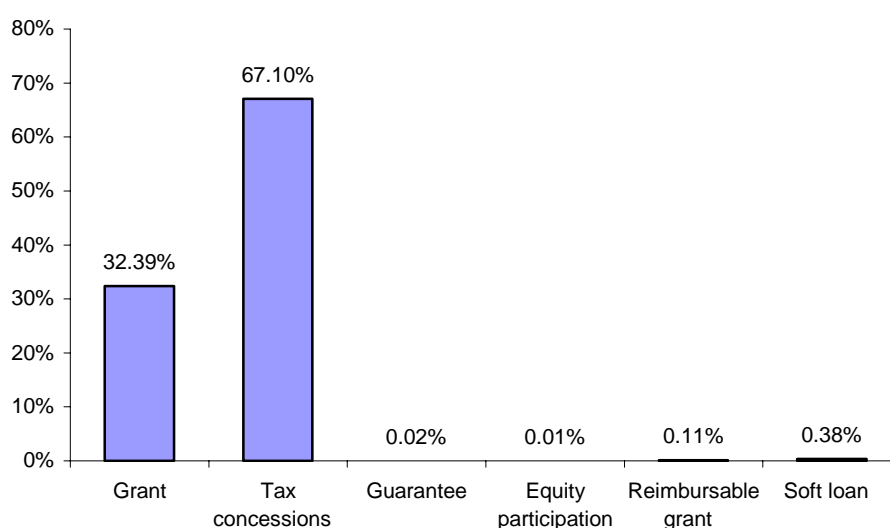


Table 8: Aid instruments as a percentage of total aid (including transport) in 2004-2007 in the EFTA States

Aid instruments in the EFTA States % - of total aid				
	2004	2005	2006	2007
Tax concessions	55.21%	57.66%	56.08%	67.10%
Grant	43.27%	41.32%	42.95%	32.39%
Soft loan	1.38%	0.86%	0.75%	0.38%
Reimbursable grant	0.09%	0.11%	0.18%	0.11%
Guarantee	0.04%	0.04%	0.04%	0.02%
Equity participation	0.01%	0.00%	0.00%	0.01%

²⁵It is recalled that in soft loans the aid element is not the loan itself but rather the favourable interest rate. With respect to guarantees the aid element is normally calculated as the difference between the premium paid (if any) and a premium at market rate.

2 Part two: Legislative and Policy developments

2.1 The State Aid Action Plan

In June 2005 the European Commission launched a State Aid Action Plan outlining the guiding principles for a comprehensive and consistent reform of state aid rules and procedures over the following five years.²⁶ Following studies and consultations in the individual areas of state aid policy the European Commission has adopted a number of measures to implement the objectives of the State Aid Action Plan and yet further are on the agenda. While the State aid Action plan is principally a strategy set for the European Union it should be recalled that the Authority and the EEA Joint Committee adopt measures for implementing the State aid rules which are similar to those applied in the European Community.²⁷ Most of the measures derived from the State Aid Action Plan have therefore also been incorporated or adopted on the EFTA side while others are pending or are at the drafting stage.

2.2 Newly adopted measures

The Authority and the EEA Joint Committee have adopted various measures which form part of the implementation of the State Aid Action Plan. The list covers so far:

- (i) new guidelines on state aid to promote risk capital investments in small and medium-sized enterprises (adopted by the Authority in October 2006);²⁸
- (ii) a new framework on state aid for research, development and innovation (adopted by the Authority in February 2007);²⁹
- (iii) new guidelines for 2007-2013 on regional aid (adopted by the Authority in April 2006)³⁰ and a block exemption regulation on national regional investment aid (incorporated into the EEA Agreement by the EEA Joint Committee in December 2006);³¹
- (iv) a new block exemption regulation on *de minimis* aid (incorporated into the EEA Agreement by the EEA Joint Committee in April 2007);³²

²⁶ http://ec.europa.eu/comm/competition/state_aid/reform/saap_en.pdf

²⁷ The EEA Joint Committee shall ensure the effective implementation and operation of the EEA Agreement and is composed of representatives of the EEA States and the European Commission. The EEA Joint Committee is therefore responsible for the incorporation into the EEA legal framework of relevant EU legislation, such as block exemptions.

²⁸ Decision No. 313/06/COL of 25 October 2006 to adopt Community guidelines on state aid to promote risk capital investments in small and medium-sized enterprises; OJ C 126 of 07.06.2007, p. 19; EEA Supplement No. 27 of 07.06.2007, p. 1.

²⁹ Decision No. 14/07/COL of 7 February 2007 to adopt a framework for state aid for research, development and innovation. The Decision is not yet published in the Official Journal but is available online.

³⁰ Decision No. 85/06/COL of 6 April 2006 to adopt guidelines on national regional aid for 2007-2013; OJ L 54 of 28.02.2008, p. 1; EEA Supplement No. 11 of 28.02.2008, p. 1. The regional aid map for Norway and Iceland was adopted by the Authority on 19 July and 6 December 2006 by Decision Nos. 226/06/COL and 378/06/COL, respectively; OJ L 54 of 28.02.2008, p. 21 and 28; EEA Supplement No. 11 of 28.02.2008, p. 19 and 28.

³¹ Decision No. 157/2006 of 8 December 2007 on Commission Regulation (EC) No. 1628/2006 of 24 October 2006 on the application of Articles 87 and 88 of the Treaty to national regional investment aid; OJ L 89 of 29.3.2007, p. 33; EEA Supplement No. 15, 29.3.2007, p. 26.

³² Decision No. 29/2007 of 27 April 2007 on Commission Regulation (EC) No. 1998/2006 of 15 December 2006 on the application of Articles 87 and 88 of the Treaty to de minimis aid; OJ L 209 of 09.08.2007, p. 52; EEA Supplement No. 38 of 09.08.2007, p. 34.

- (v) new guidelines on state aid for environmental protection (adopted by the Authority in July 2008);³³ and
- (vi) prolongation of the current guidelines on state aid to shipbuilding until 31 October 2011 (adopted by the Authority in October 2008).³⁴

2.3 Draft legislation and forthcoming measures

General block exemption regulation

The European Commission adopted the so-called “General Block Exemption Regulation” in July 2008.³⁵ Just as in the block exemptions adopted so far, the grant of aid which fulfils the conditions laid down in the new block exemption Regulation will be considered as compatible state aid without requiring prior notification to the Commission. The new Regulation consolidates into one text and harmonises the rules previously existing in five separate block exemption regulations on (i) aid to SMEs; (ii) research and development aid in favour of SMEs; (iii) aid for employment; (iv) training aid; and (v) regional aid as well as it increases the number of categories eligible for exemption. On this basis the new Regulation authorises aid in favour of, amongst others, SMEs (for investment, employment, consultancy services and trade fairs); research & development & innovation; regional development; employment and training; risk capital investments; and environmental protection as well as for the creation of enterprises by female entrepreneurs.

The Regulation has been incorporated into the EEA Agreement by the EEA Joint Committee in November 2008.³⁶

Communication on setting reference and discount rates of interest

The Commission launched an extensive consultation process in 2006 and 2007 which led to the adoption on 12 December 2007 by the European Commission of a Communication on a new method for setting reference and discount rates used in the analysis of state aid cases for calculating the grant equivalent of aid and the aid element resulting from interest subsidy schemes.³⁷ The Authority is in the process of adopting corresponding guidelines.

Draft Commission notice on state aid in the form of guarantees

In May 2008, the Commission adopted a new notice on state aid granted in the form of guarantees.³⁸ The new notice aims at improving legal certainty and involves a number of measures targeted at the financing of SMEs. In this regard it includes a simplified approach for guarantees in favour of SMEs in the form of safe harbour premiums based on the lender's credit worthiness. More guidance is provided on risk assessment and the

³³Decision No. 500/08/COL of 16 July 2008 to adopt [guidelines on state aid for environmental protection](#). The decision is not yet published in the Official Journal but is available online.

³⁴Decision No. 637/08/COL of 8 October 2008 [to prolong guidelines on state aid to shipbuilding](#). The decision is not yet published in the Official Journal but is available online.

³⁵Commission Regulation (EC) No. 800/2008 of 6 August 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.

³⁶[Decision No. 120/2008](#) of 7 November 2008 (not yet published).

³⁷[OJ C 14 of 19.1.2008, p. 6](#).

³⁸[OJ C 155, 20.6.2008, p. 10](#).

calculation of a market premium in guarantee schemes. The notice is in the process of being implemented by the Authority.

Broadcasting communication

On 10 January 2008 the Commission issued a questionnaire on the Communication on the application of state aid rules to public service broadcasting.³⁹ On the basis of the results of the public consultation the Commission issued a new draft Communication on 4 November 2008. The new guidelines aims at consolidating existing case practice and adapting the current rules to the developments occurred since 2001. Since 2001 there have been both market developments (e.g. new delivery platforms, media services and market players) as well legal changes (such as the adoption of the Services of General Economic Interest "package" in 2005). The new draft will be discussed during the autumn and winter 2008. The adoption of a revised Communication is foreseen for the first half of 2009.

Rescue and restructuring guidelines

The current guidelines on aid for rescue and restructuring undertakings expire in October 2009. To prepare the revision of these guidelines, the European Commission invited all interested parties to share their experience with the current guidelines. For this purpose the Commission published a questionnaire in September 2007.⁴⁰

Procedural rules, notification forms

In January 2008 the Commission adopted an amendment to Regulation No. 794/2004 on procedural rules in the area of state aid.⁴¹ The amendment involves the introduction of new notification forms for purposes of aid to promote risk capital investments in SMEs and aid for research and development as well as forms for simplified notifications. New provisions are also introduced on the interest rates applicable in respect of the recovery of unlawful and incompatible aid and on issues related to the electronic transmission of correspondence in state aid cases. The regulation is currently being implemented by the Authority.⁴²

Recovery notice

Towards the ends of 2007 the Commission issued a notice on the effective implementation of Commission decisions ordering Member States to recover unlawful and incompatible state aid.⁴³ The notice contains a review of current case law and identifies the principles governing recovery of illegal and incompatible state aid. A corresponding notice is currently being prepared by the Authority.

³⁹ http://ec.europa.eu/comm/competition/state_aid/reform/broadcasting_comm_questionnaire_en.pdf

⁴⁰ http://ec.europa.eu/comm/competition/state_aid/reform/rescue_questionnaire_en.pdf

⁴¹ [OJ L 82, 25.03.2008, p. 1.](#)

⁴² Commission Regulation No. 794/2004 has been implemented by virtue of the [Authority's Decision No. 195/04/COL of 14 July 2004, OJ L 139, 25.05.2006, p. 37](#); EEA Supplement No. 26 of 25.05.2006, p. 1. The Decision has been amended by [Decision 319/05/COL of 14 December 2005](#); OJ L 113 of 27.04.2006, p. 24; EEA Supplement No. 21 of 27.04.2006, p. 46. A Notice lays down the "Details of arrangement for the electronic transmission of State aid notifications"; OJ L 139, 2006.25.05, p. 37; EEA Supplement No. 26 of 25.05.2006, p. 1. The most recent amendment of Regulation No. 794/2004 will therefore be implemented by amending Decision No. 195/04/COL.

⁴³ [OJ C 272, 15.11.2007, p. 4.](#)

Guidelines for state aid on railway undertakings

In July 2008 the Commission adopted new guidelines on the compatibility of state aid to railway undertakings.⁴⁴ The guidelines concern railway undertakings as opposed to infrastructure financing. The guidelines cover debt-takeover operations in the context of railway undertakings; investment aid in regional and urban rail transport for the purposes of encouraging rolling stock; restructuring railway undertakings; aid for the coordination of transport and public service compensation as well as unlimited state guarantees in favour of railway undertakings. A corresponding notice is currently being prepared by the Authority.

Enforcement notice

In September 2008 the Commission issued draft guidelines on the enforcement of state aid rules by national courts. The guidelines are aimed at supporting national courts and potential claimants in relation to domestic state aid challenges. Interested parties have been invited to comment on the draft by the end of October 2008. Any revisions will be incorporated in a revised draft which is foreseen to be adopted by the end of 2008 or in the beginning of 2009. Once adopted by the Commission a corresponding notice will be prepared by the Authority.

Cinema Communication

Finally, the Authority will now adopt guidelines corresponding to the Cinema Communication issued by the Commission in 2001.⁴⁵ The Communication concerns the possibility to approve financing measures in favour of cinema and television productions on the basis of EC Treaty Article 87(3)(d) EC. The Communication provides that the aid must benefit a cultural product, that producers must be free to spend at least 20% of the production budget in other Member States without suffering any reduction in the aid, that the aid intensity must be limited to 50% of the production budget and that aid supplements for specific film-making activities are not allowed.

The fact that the Cinema Communication issued by the Commission is foreseen to be prolonged for three years (until 2012) will be taken into account when deciding the duration of the corresponding guidelines prepared by the Authority.⁴⁶

⁴⁴ [OJ C 184, 22.7.2008, p. 13.](#)

⁴⁵ [Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions on certain legal aspects relating to cinematographic and other audiovisual works, adopted on 26.9.2001, COM \(2001\) 534 final.](#) OJ C 43, 16.02.2002, p. 6.

⁴⁶ See [Proposed Commission Communication of 16 October 2008 on the extension of rules for State aid to film and audiovisual production.](#)

3 Part Three: Recovery

3.1 The rules on recovery of unlawful and incompatible state aid

Article 14 of Part II of Protocol 3 to the Surveillance and Court Agreement provides that “*where negative decisions are taken in cases of unlawful aid, the Authority shall decide that the EFTA State concerned shall take all necessary measures to recover the aid from the beneficiary.*”⁴⁷

The European Commission has issued a Notice⁴⁸ in November 2007 on the state of play of recovery, a similar version of which is currently being prepared by the Authority. It appears from the Notice that few recovery cases have been completed within the deadline set out in the recovery decision. Recovery of illegal and incompatible state aid is also a lengthy process in the EFTA States. This is so despite the fact that Article 14(3) of Protocol 3 to the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice. Article 14(3) provides that “*recovery shall be effected without delay and in accordance with the procedures under the national law of the EFTA State concerned, provided that they allow the immediate and effective execution of the EFTA Surveillance Authority’s decision.*”⁴⁹ The Court has confirmed that national procedures which do not meet the conditions of immediate and effective execution of the recovery decision shall be left unapplied.⁵⁰

3.2 State of play of pending recovery cases

On 31 December 2007 four recovery cases were pending in the EFTA States. Three recovery cases are pending against Norway. The oldest is from 2004 and involves exemptions from electricity tax⁵¹ while the second is from 2006 and concerns the energy saving fund “Enova”.⁵² The third is from 2007 and involves the “VAT Compensation scheme”.⁵³ Only one recovery case “Entra” (opened in 2005) has been closed (in 2006).⁵⁴

As regards Iceland only one case is pending which is a case from 2004 on “International Trading Companies”.⁵⁵ No recovery cases are pending against Liechtenstein.

As is clear from Table 6 the number of open recovery cases is increasing and certain cases are already 3-4 years old. In the first six months of 2008 yet another recovery case has been added to the list, resulting in a total of 5 pending recovery cases in the three EFTA States in 2008.⁵⁶

⁴⁷Protocol 3 to the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice.

⁴⁸The notice is entitled “Towards an effective implementation of Commission decisions ordering Member States to recover unlawful and incompatible State aid”, OJ C 272, 15.11.2007, p. 4.

⁴⁹Emphasis added. This rule corresponds to Article 14(3) of Council Regulation No. 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 (now Art. 88) of the EC Treaty, OJ L 83/1, 27.03.1999, p.1.

⁵⁰Case C-232/05 *Commission v France* (“Scott”) [2006] ECR I-10071.

⁵¹Decision 148/04/COL of 30 June 2004. The case (which involved electricity tax exemptions in favour of the manufacturing and mining industries) was appealed to the EFTA Court which upheld the Authority’s decision in a judgment of 21 July 2005 (Joined cases E-5/05, 6/04, 7/04).

⁵²Decision 125/06/COL of 3 May 2006.

⁵³Decision 155/07/COL of 3 May 2007.

⁵⁴Decision 318/05/COL of 14 December 2005 on stamp duty exemptions in favour of Entra Eiendom AS.

⁵⁵Decision 21/04/COL of 25 February 2004. Upon submission of the case by the Authority to the EFTA Court the latter ruled on 25 November 2005 that the aid had to be recovered (Case E-2/05).

⁵⁶Decision 28/08/COL of 23 January 2008 on the Wood Scheme.

The Authority continues its efforts to obtain information from the EFTA States on outstanding aid amounts to be recovered. Where EFTA States do not take all measures available to implement such decisions the Authority will actively pursue non-compliance under the procedures provided for in the Surveillance and Court Agreement.

Table 6: Pending recovery cases by EFTA State, until end of 2007

	Situ- ation 31/12/03	New cases 2004	Cases closed 2004	New cases 2005	Cases closed 2005	New cases 2006	Cases closed 2006	New cases 2007	Cases closed 2007	Situ- ation 31/12/07
ICE	0	1	0	0	0	0	0	0	0	1
LIE	0	0	0	0	0	0	0	0	0	0
NOR	0	1	0	1	0	1	1	1	0	3
TOTAL	0	2	0	1	0	1	1	1	0	4

	New cases in the first six months of 2008	Cases closed in the first six months of 2008	Situation 1/7/08
ICE	0	0	1
LIE	0	0	0
NOR	1	0	4
TOTAL	1	0	5

4 Part Four: Information sources and methodology

4.1 State aid register – a second transparency tool

The Authority's state aid register is an online service⁵⁷ which provides an overview of all state aid cases which have been the object of a final decision by the Authority since 1 January 1994. The register of the European Commission includes data on all reports made in respect of block exemptions in the Official Journal; see http://europa.eu.int/comm/competition/state_aid/register/.

4.2 Annual report and state aid e-news

The Authority publishes an Annual Report on its activities which summarises the most important legal developments and case-law during the relevant year. It is available at the general website of the Authority under "Information and Publications".

State aid e-news which commenced in 2006 is an online service via the general web-site of the Authority under "State aid". It contains a weekly update providing an overview of state aid decisions adopted by the Authority or the European Commission, their publication as well as the issuance of court judgments. It is also available via the web-site of the European Commission.⁵⁸

4.3 Methodology

The present scoreboard is published in response to the Authority's obligation set forth in Article 6 of Decision No. 195/04/COL of 14 July 2004 which provides that the Authority shall publish a scoreboard, containing a synthesis of the information in the annual reports submitted by the individual EFTA States in compliance with Article 21 of Part II of Protocol 3 to the Surveillance and Court Agreement.

Except for recovery cases, all data on the EFTA States have been obtained from the annual reports provided by the EFTA States, as well as on the basis of the reports informing of the application of block exemptions by EFTA States. All state aid data refer to existing aid schemes (either dating from prior to the entry into force of the EEA Agreement or which have been subject to a decision by the Authority) and granted ad-hoc aid.⁵⁹ This also means that no pending cases which are still being examined have been included.

State aid data collected for the scoreboard are grouped according to primary objectives which may be either horizontal (for example research and development, small and medium-sized enterprises etc.) or sector-specific (i.e., the maritime sector, the manufacturing sector etc). Unless otherwise indicated information has been included according to the objective for which the aid has been earmarked as opposed to whom the final aid recipients may be. For example, if the aid is earmarked for small and medium-sized enterprises it will be classified as having small and medium-sized enterprises as its primary objective irrespectively of the sectors which beneficiaries belong to. Also, aid granted under, say, a regional development scheme may ultimately benefit small and medium-sized enterprises, but if, at the time the aid was approved, the scheme was open to all sizes of enterprises it will be classified as regional aid.

⁵⁷ <http://www.eftasurv.int/fieldsofwork/fieldstateaid/stateaidregistry/>

⁵⁸ http://ec.europa.eu/comm/competition/state_aid/newsletter/index.html

⁵⁹ Almost all aid granted by the three EFTA States in 2004-2007 have been awarded under aid schemes.

As regards information about the 27 EU Member States all data have been obtained from the scoreboard issued by the European Commission published in November 2008.⁶⁰

Any queries or requests for data should be marked “scoreboard” and be sent to the general state aid mailbox at stateaid@eftasurv.int

⁶⁰http://ec.europa.eu/comm/competition/state_aid/studies_reports/2008_autumn_en.pdf. The new Member States have reported on the grant of state aid in the years prior to becoming members of the EU.